



**Pre-Exit Fitness Test**

**The Next Move  
For Business  
Owners**

# **Business Owner Pre-Exit Fitness Test**

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## WHAT'S YOUR STATE OF EXIT READINESS?

We begin the Transition and Exit Planning process by understanding your present state of pre-exit fitness. How ready are you (and therefore your loved ones) for both the expected and the unexpected? What follows is a Fitness Test which we've designed to help you answer that question and to help us together determine what is needed to help you achieve a successful transition and future exit.

### PRE-EXIT FITNESS TEST

Read the questions carefully. Be honest with yourself. If you don't know an answer for sure, it should be answered "No". A few questions might be "not applicable" to you. Answer them "Yes".

#### Building Block 1 – Decide What I Want

- |  | Yes                      | No                       |
|--|--------------------------|--------------------------|
| 1. Do I know for sure who I want to transfer my duties and my business to e.g. to an insider (family member, key employee or co-owner) or to an outside third party?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Do I know for sure whether I can transfer my business to an insider or to an outside third party?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Have I determined which parts of my business assets (real estate, equipment, intangible property, certain divisions) will be retained by me and leased/licensed to the company (rather than sold to the buyer)?           | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Do I know in which State I want to reside after I exit from active duty?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Have I decided for sure when I want to start transitioning some of my duties to enable me to leave the business for an extended period of time and when I want to transition all of my duties to a successor permanently? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Have I decided for sure when I want to begin transferring ownership of my company and when I want to have completed the transfer of all of my ownership in my company in return for financial independence?               | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Do I know why I want to exit (and who I want to benefit from my exit)?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Do I know for sure how much cash-in-pocket I need or want upon my retirement to achieve financial independence?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Do I know for sure how much net after tax cash I need or want from the sale of my business today in order to achieve financial independence?  | <input type="checkbox"/> | <input type="checkbox"/> |

#### Building Block 2 – Decide What I've Got

- |  | Yes                      | No                       |
|--|--------------------------|--------------------------|
| 10. Do I know whether my business financial results and value are understated (and if so by how much) because compensation, real estate rental, equipment rental and intangible licensing between myself and my company are not at normalized market levels? | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. Do I know how much my company is actually worth to the type of buyer I intend to transfer to, in after tax realizable cash?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. Has the value of my business been estimated recently by a valuation expert or M&A transition specialist?   | <input type="checkbox"/> | <input type="checkbox"/> |

#### Building Block 3 – Protect My Family

- |  | Yes                      | No                       |
|--|--------------------------|--------------------------|
| 13. Have I executed a durable financial power of attorney which is a "present power" which designates a capable person (and capable successors) to handle my financial affairs upon my disability?       | <input type="checkbox"/> | <input type="checkbox"/> |
| 14. Have I executed a durable health care power of attorney which designates a capable individual (and capable successors) to handle my medical affairs upon my disability and which is HIPAA compliant? | <input type="checkbox"/> | <input type="checkbox"/> |

- |  |                          |                          |
|--|--------------------------|--------------------------|
| 15. Have I executed a health care directive (living will) which specifies proper guidelines for utilizing or maintaining health care procedures in extraordinary circumstances?            | <input type="checkbox"/> | <input type="checkbox"/> |
| 16. Have I executed a pour-over will to designate a capable personal representative (executor) and capable successors to handle my estate (including business matters) upon my death?      | <input type="checkbox"/> | <input type="checkbox"/> |
| 17. Have I executed a living trust which protects my spouse and which protects my children and grandchildren until designated ages?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 18. Have I re-titled my assets into my living trust "bucket" (including my business assets) in order to avoid probate court intervention with regard to my business?                       | <input type="checkbox"/> | <input type="checkbox"/> |
| 19. Have I appointed capable successor trustees to my living trust who understand my business operations?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 20. Have I addressed my charitable giving objectives, in particular from a pre-exit tax favored perspective?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 21. Have I addressed my education funding objectives, in particular from a pre-exit tax favored perspective?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. Have I implemented the applicable personal Asset Protection Plan tools, given an assessment of my personal exposure to business and personal contingent liability risks?               | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. Have I addressed specific bequests and equalization to and amongst children who are active or inactive in the business?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. Have I designated in my Estate Plan how my personal representative (executor), family business representative or trustee is to manage or sell my business upon my death or disability? | <input type="checkbox"/> | <input type="checkbox"/> |
| 25. Have I included in my Estate Plan a dispute resolution provision which prevents a dissatisfied child from disrupting business operations?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. Have I recently evaluated my personal life and disability insurance needs and implemented the insurance coverages appropriate to addressing my financial gaps, needs and objectives?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. Have I established a funded salary continuation plan or agreement to provide ongoing support to my spouse and family upon my death or disability?                                      | <input type="checkbox"/> | <input type="checkbox"/> |

#### Building Block 4 – Protect My Business

- |   | Yes                      | No                       |
|---|--------------------------|--------------------------|
| 28. Is my financial reporting and accounting control system providing a high degree of protection and assurance for my financial systems credibility and tax law compliance through CPA reviewed or audited financial statements (to both protect my profits today and to demonstrate my earnings track record to a potential buyer of my business)?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 29. Have I recently done an intellectual property audit to help assure my business has a high degree of protection for my intangible assets (such as trade secrets, trade names, trademarks, service marks, and patents)?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 30. Are both my company entity structure <u>and</u> risk management program set up to best protect certain assets or business segments from the risk of liabilities or risks from another business segment? In particular, have I recently completed a thorough risk management assessment to identify and reduce property, casualty and business risk exposures of emerging liabilities that could otherwise jeopardize company profitability and ability to sell at full price? | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. Is the company able to retain key employees, customers, suppliers and franchisor relationships upon my death or disability?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. Will I be able to avoid a family dispute that would   | <input type="checkbox"/> | <input type="checkbox"/> |

be detrimental to my business upon my death or disability?

33. Is my company financially prepared to deal with the loss of a key employee?

34. Have I developed a contingency notification letter to customers/patients, lenders, suppliers, franchisor and employees for immediate release upon my death or disability?

35. Do I have contingency shareholder and board of director resolutions for directing board of director actions upon my death or disability?

36. Do I have contingency board of director instructions for the process for selecting an interim and permanent successor (or confirming my pre-designated successor) and/or taking contingency options to manage the company upon my death or disability?

37. Have I determined whether I need a "stay bonus plan" to help retain key personnel from departing a "potentially sinking ship" upon my death or disability?

38. Have I addressed already existing or potential disputes or disagreements which will surface on account of my unplanned exit from the business involving co-owners, family, customers, creditors, franchisor, vendors, employees and managers?

39. Have I minimized the financial hit to my company due to the loss of key personnel (including yourself), by having performed key employee valuations, backed up by key employee life and disability insurance coverage payable to the company?

**Building Block 5 – Protect My Ownership** **Yes** **No**

40. Will my spouse or family be able to receive cash for the full value of my stock upon my death or disability?

41. Is my company able to resolve continuing ownership by one or more partners pursuant to a pre-determined written, contractual method upon an irreconcilable dispute?

42. Is my company able to contractually control retention of ownership amongst key owners upon a divorce?

43. Is my company able to continue to obtain bank or other third party financing upon the loss of me (or another owner) as a financial resource, guarantor or lender?

44. Is my company financially and operationally prepared to deal with the loss of my key services?

45. Do I have an exit plan letter to my family, with written instructions to my spouse and family for handling business matters upon my death or disability?

46. Do I have pre-written guidelines for assisting my spouse, family and advisers in selling the company to a third party or insiders upon my death or disability?

47. Do I have pre-written designation to my spouse, family and/or board of directors naming principal exit plan advisors to assist in advising family and my board of directors on the transition of business matters upon my death or disability?

48. Have I established a Business Continuity Agreement to help avoid or resolve disputes (in such areas as dividend distributions, compensation setting, stock redemption policy, voting agreements and competing activities)?

49. Have I established a Buy-Sell Agreement which establishes must/may buy obligations on death, disability, employment termination, retirement, bankruptcy and divorce of all shareholders?

50. Have I established Buy-Sell Agreement provisions giving the majority owner "drag along" rights to sell all

stock (including the minority) in a company sale?

51. Have I established a Buy-Sell Agreement which establishes the right type of stock pricing?

52. Have I provided sufficient funding for the Buy-Sell obligations under our Buy-Sell agreement?

53. Have I established in our Buy-Sell Agreement key provisions for addressing non-competition and non-solicitation, as well as Subchapter "S" protection, as applicable?

**Building Block 6 – Grow My Investments** **Yes** **No**

54. Do I have a professionally prepared Comprehensive Wealth Plan?

**Building Block 7 – Grow My Business** **Yes** **No**

55. Is my facility appearance and efficiency up to industry standards?

56. Have I recently benchmarked my business operations to determine if I am deploying my financial and human capital as efficiently as others in my industry (in order to achieve better cash flow for the business owners and a better price and cash flow upon my exit)?

57. Do I have a current written Strategic Growth Plan for my business?

58. Do I have a written Business Model Innovation Program?

59. Is my business cash flow predictable, steady and growing?

60. Have I addressed the "Porter Forces" impacting my business and have I assessed the presence and duration of the "economic moats" impacting or benefiting my business?

**Building Block 8 – Prepare My Management** **Yes** **No**

61. Does my business have a high degree of protection designed to keep key employees from being hired away or utilizing company know how for other employers?

62. Have I recently completed a thorough human resource audit to assure my compensation plans and employee benefits programs are competitive with optimal benefit mix, my policies and procedures are legally compliant and my retention of employees is equal to or better than industry average?

63. Have I built a Leadership Team Development Program with a key management team which is capable today of leading my business in my absence (and leading my business when owned by a third party buyer)?

64. Is my key management team engaged to the degree that they see themselves as having a possibility of owning my company and therefore being less inclined to jump ship for a competitor?

65. Do I have an effective Key Employee Incentive plan which is either equity-based or cash-based and which provides a rolling-vesting performance commitment?

66. Do I have a Management Transition Program in which I have targeted specific inside successors to top management (or have retained an outside management recruiting firm to hire a successor from outside the company)?

**Building Block 9 – Prepare My Company** **Yes** **No**

67. Is my company entity structure set up to best help me separate in advance those assets or business segments I may wish to retain or to sell separately upon my exit?

68. Have I resolved all litigation or other "skeletons in the closet" which could impair my ability to sell or the pricing I might receive?

69. Do I have sole control to cause the sale of my company (and to require fellow shareholders to sell)?

70. Do I have the ability to sell my company without

the need for franchisor approval, licensing agency approval, or lender approval and have necessary approvals been obtained?

71. Do I know whether I can sell my company without incurring penalties or prohibitions under production, supply, and incentive agreements?
72. Have I completed a due diligence buyer checklist to flush out those aspects which need to be placed in order before a sale can occur?
73. Are my corporate organization chart and corporate minute book up-to-date?

**Building Block 10 – Prepare My Tax Savings Plans** **Yes No**

74. Have I determined whether my business needs to be restructured in order to minimize taxation both in company operations and upon sale of the company and has this restructuring been implemented?
75. Have I determined whether advanced tax elections can minimize taxation to me and the company upon sale and have such elections been implemented?
76. Have I determined how I am going to avoid state capital gain taxes upon my sale and am I in a position now to do so?
77. Do I have a plan for obtaining all available state and local tax and nontax incentives for my business and employment growth and expansion?
78. Have I executed a living trust which properly establishes the appropriate marital deduction provisions and federal estate tax exemption utilization for both spouses?
79. Have I implemented appropriate estate tax reduction tools, such as annual exemption gifting, family limited liability partnership, lifetime exemption gifting, a gifting power of attorney and irrevocable life insurance trust, as applicable?

**Building Block 11 – Plan My Inside Route Exit** **Yes No**

80. Have I determined whether an actual potential inside buyer exists for my company who will be in a position to pay me the price I am expecting?
81. Have I determined the reasons why my business would be attractive to an inside buyer and whether my business presently has those characteristics?
82. Do I have a present program in place for beginning to provide ownership (through either stock grants or stock purchases) to key employees as a retention tool and as a means to improve the likelihood of a sale to insiders as I exit?
83. Have I decided whether I will provide seller-assisted financing on a sale to an insider and whether this will provide the financial security which I need or want?
84. Have I decided whether I am willing to receive, as part of the compensation for a sale to an insider, deferred compensation, a consulting fee or payment for a no-compete?
85. Have I decided whether a sale to an insider needs to be accomplished through transfer of part of the ownership now and the balance later?
86. Have I determined the estimated tax impact to myself on the sale of my business to an insider under my present business structure and taken the steps to minimize the tax impact?
87. Have I determined the estimated buyer tax impact on the purchase of my business by an insider under the present business structure and how to make the purchase more tax effective for the buyer (which may also increase the chances of selling at a better price)?

88. Have I determined whether the bank will finance my sale to insiders and whether I am willing to take back the company should the buyer default on the purchase?

89. Have I determined the employee stock ownership restrictions and buy-back obligations which need to exist as to stock owned by key-employees if I am still an owner in the company?
90. Have I determined whether a sale to an Employee Stock Ownership Plan is feasible (and if bank financing would be necessary, whether this would be available)?

**Building Block 12 – Plan My Outside Route Exit** **Yes No**

91. Have I decided whether a sale to an outside third party is my primary or backup plan for exiting my business and if so whether this would be a financial buyer or a strategic buyer?
92. Have I determined the specific reasons my business would be attractive to a third party buyer (as either my primary or backup plan) and whether my business presently has those characteristics?
93. Have I investigated the M&A market for my specific business to determine whether my business is marketable to an outside third party buyer at a decent price?
94. Have I identified specific potential outside third party buyers (such as competitors, customers, investors, suppliers, similar businesses, private equity funds, franchisor, etc.)?
95. Have I established my anticipated deal terms for selling to an outside third party buyer?
96. Have I established the estimated seller tax impact on the sale of my business to an outside buyer under my present business structure and taken the steps to minimize the tax impact?
97. Have I estimated the buyer tax impact on the purchase of my business under my present business structure and determined how to make the purchase more tax effective for the buyer (which may also increase the chances of selling at a better price)?
98. Have I determined whether partial payment for my business in the form of items other than sale price (e.g. deferred compensation, salary continuation, etc.) will be more tax effective for either me or for both the seller and the buyer?

**Transition Growth Plan and Implementation** **Yes No**

99. Do I have a written Transition Growth Plan (and has this been thoroughly communicated to key employees, family members, key advisors and my banker who need to know this)?
100. Do I believe I am as prepared as I should be for both my planned and unexpected exit?

**TOTALS**

	Ready	Not Ready
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**Contact Information**  
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