



# Questions For Buy-Sell Review & Life Insurance Funding Analysis

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# Buy-Sell Agreements Are Valuable Business Tools

A buy-sell agreement is a written contract which establishes what will happen to a business owner's interest when he/she leaves the business. Sometimes called "business wills," these agreements usually list a variety of events which trigger the obligations to buy and sell the interest of a departing owner. Effective buy-sell agreements establish the price, payment terms and the procedures for transferring a departing owner's interest.

Owners who have adopted a buy-sell agreement have taken an important step in protecting their business, their families and themselves. Once an agreement has been signed, it needs to be kept up to date. To produce the best results, both the agreement and the assets set aside to fund it need to be regularly monitored. Without regular review and attention, the benefits the agreement was designed to deliver could be lost.

A good place to start in making sure your buy-sell will perform as expected is to find the answers to a number of questions about it and the funds set aside to fund its promises.

## PART I:

### Questions About the Buy-Sell Agreement

1. Are purchases of business interests mandatory or optional? \_\_\_\_\_  
*(If it's optional, no one is required to buy)*
2. What are the triggering events? Check those that are covered:  
 Death                       Long-term disability  
 Retirement                 Termination of employment  
 Bad conduct                Other: \_\_\_\_\_
3. Does the purchase price in the agreement reflect the business' current value? Date current purchase price or formula established? \_\_\_\_\_
4. Does the agreement prevent an owner's child/children from inheriting the owner's interest? \_\_\_\_\_
5. Have the owners' spouses signed the agreement? \_\_\_\_\_  
*(In community property states, spouses may have an ownership interest; in common law states, spouses may still claim an interest.)*
6. Has the agreement been taken to a knowledgeable business planning attorney/counselor for an objective second opinion? Date: \_\_\_\_\_
7. Have any owners signed personal guarantees promising to pay back current loan balances and/or bank lines of credit? What's the current debt? \_\_\_\_\_
8. Are there any non-owner key employees who may leave if they don't become owners or who may not accept the results of the current buy-sell arrangement? Have any steps been taken to retain their talents and experience?  
\_\_\_\_\_
9. If a key employee does leave, has he/she signed an enforceable non-compete agreement? \_\_\_\_\_  
*(A non-compete agreement may make it harder for a departing key employee to solicit clients or take them with them when they leave.)*  
Date non-compete agreement signed: \_\_\_\_\_  
Length of time of non-compete: \_\_\_\_\_
10. Has money been set aside to fund the agreement? If so summarize the funding details:  
\_\_\_\_\_



## PART II:

# Life Insurance Review

Life insurance policies which have been purchased to fully or partially fund the agreement should be regularly reviewed to make sure that they are consistent with the buy-sell agreement and that they are performing as expected. Consider these questions about the life insurance funding your buy-sell agreement:

1. Based on current business valuations is there enough life insurance in force to fully fund the promises in the agreement should any of the owners die tomorrow?
2. Can additional coverage be secured to cover growth in business value which may take place in the future?
3. Are the ownership and beneficiary designations of each policy consistent with the terms of the agreement?
4. If the business owns the policies or has an interest in them and they were purchased after August 1, 2006, 101(j) forms may be needed. If so, have those forms been executed and filed in the business' records? *(Failure to have signed 101(j) forms could potentially subject life insurance death benefits to income taxes and prevent them from being received income tax free.)*
5. Does the life insurance coverage on each owner who works in the business include an element for key employee coverage? *(These death benefits could help offset costs which may be incurred in identifying, recruiting and training a suitable replacement key employee.)*
6. If an owner's interest is purchased during his lifetime, does the agreement give him/her the ability to acquire ownership of all the life insurance policies insuring his/her life which are owned by other owners or the business?
7. Do the owners have enough personal life insurance *(over and above the life insurance purchased to fund the buy-sell agreement)* to meet their personal financial objectives?

# Questions Which May Assist in a Life Insurance Policy Review Analysis

## I. What is the state of this life insurance policy today?

1. Is this the right type of policy for this situation? (suitability) Term, UL, WL, VUL
2. Is the policy's death benefit the right amount?
3. Is the policy's premium appropriate? (affordability)
4. Are the riders to this policy appropriate and affordable?
5. Does the policy have surrender charges? If so, how much and when do they end?
6. Does the policy have a convertibility feature? If so, what are the terms and into what policies from this insurer can it be converted?
7. Does the insurance company have strong financial ratings?
8. Is the ownership of the policy still appropriate? If the policy death benefits were to be taxed in the owner's estate, would federal or state taxes increase?
9. Is the policy beneficiary designation consistent with the buy-sell agreement?
10. If the policy is no longer needed, does the insured have the right to acquire it for a fair price?

## II. How is this life insurance policy likely to perform in the future?

1. If no changes are made in this policy, how is it projected to perform in the future?
2. If the policy's crediting rate is reduced 1% annually, how is it projected to perform?
3. If premium payments are reduced, how is the policy likely to perform?
4. Are any policy riders, guarantees, or other benefits in danger of being lost?
5. Are the insurance company's financial ratings likely to change? How?
6. Is the ability to pay premiums likely to change in the future? If so, how?

## III. Are other life insurance policy options available?

1. Does the owner have the option of converting to another policy offered by insurer? Would a conversion be beneficial?
2. Has a policy from a different insurer been applied for in the past? When? Results?
3. Is the insured likely to qualify for a policy from a new insurer today? UW Class?
4. Consider applying for new policies from at least two highly rated insurers.

## IV. Is this life insurance policy a good value today and in the future?

1. Compare the riders and features of the other available policies to the current policy.
2. Compare the projected death benefits of the policies.
3. Compare the premium amounts and affordability of the policies.
4. Compare the projected cash surrender values of the policies.
5. Compare the relative financial strengths and ratings of the insurers.

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