

# **Family Business and Estate Analysis and Wealth Transfer Plan for Jack and Genny Royce and Family**

(SAMPLE EXCERPTS)

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# Review of Current Estate Plan

## CURRENT WILL OF JACK & GENNY ROYCE

Date of Will: November 2, 1993; 1st Codicil & 2nd amend to trust 10/2/98

Executor: Surviving Spouse

Successor Executor: Phillip Royce, or Sarah Royce if he ceases to act

Distribution of Estate: By Will and Trust for Jack & Genny Royce

### **At the death of the first spouse:**

All personal property of a personal nature including but not limited to, furniture, appliances, automobiles, jewelry, artifacts, and other personal effects shall be bequeathed to spouse, provided they survive more than 60 days. If they do not then all of the above said property will be added to the residue of the estate.

The residue of the estate will be bequeathed, in trust to the Trustee of that trust designated as the Trust of Jack Royce and Genny Royce.

### **At the death of the second spouse:**

The Trustee may pay out of the principal of the Survivor's Trust or if it has been exhausted, out of the Marital Trust or the Exemption Trust the Survivor's debts, last illness and funeral expenses, fees and other costs incurred in administering the probate estate, termination of this trust estate and inheritance taxes.

A disinterested, qualified appraiser shall appraise the entire remaining tangible personal property. Each of the Settlor's living children (Sally Royce, Tom Royce, Phillip Royce, Wendy Royce & Robert Lansing) shall be entitled to an equal share of the said tangible property. The living children shall be given chits in the amount of \$100.00 denomination totaling the amount of their respective share. Thereafter, the children shall draw lots to determine the order of selection of the various items of tangible personal property; the selection process shall continue in the same order until all of the items have been distributed. Each child shall exchange an appropriate number of chits for each item of personal property selected.

The balance of the Survivor's and Marital Trusts shall be distributed to or for the benefit of such one or more persons and entities, including the estate of the survivor, as the survivor may appoint by Will or a Codicil.

# Personal Financial Statement

## PERSONAL ASSETS OF JACK & GENNY ROYCE

### Current Assets:

Cash in Bank	\$6,000
Home Savings	\$68,500
Community Bank	\$76,000
Great Western S&L	\$47,500
1st National Bank	\$2,000
Life Insurance Cash Value	\$30,000
Notes Receivables	\$90,789
Personal Property	\$181,000
Stocks	\$70,776
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Total Current Assets	\$572,565

### Fixed Assets:

100% interest in Royce Supplies Corp	\$470,000
Real Estate	
1233 E 23rd Street (Residence)	\$300,000
1235 E 23rd Street	\$85,000
Arvin Triplex*	\$102,000
Arvin Vacant Lot*	\$68,000
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Total Fixed Assets	\$1,025,000

**TOTAL ASSETS:** **\$1,597,565**

### Liabilities:

Mortgage on Residence	\$14,000
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**NET WORTH:** **\$1,583,565**

### Additional:

Life Insurance Death Benefits	\$218,000
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**TOTAL ESTATE VALUE:** **\$1,801,565**

\* These assets are the separate property of Genny Royce, all other assets are deemed to be community property. Client supplied information regarding estimated market value of assets, and form of ownership.

# Life Insurance

Company, Policy #, Type	Face Value, Owner	Premium, Insured	Cash Value, Beneficiary
Prudential 986456499 Whole Life	\$100,000 Genny Royce	\$6,500 Genny Royce	\$85,000 Jack Royce
MONY 1 07478-OSNY Life Payable 28 years	\$25,000 Genny Royce	\$1,224 Genny Royce	\$16,000 Jack Royce
MONY 928748-38938 3yrs Mod. Life	\$5,000 Genny Royce	\$93 Genny Royce	\$2,100 Jack Royce
MONY B174646-8484 FS Adjustable Life	\$50,000 Genny Royce	\$3,000 Genny Royce	\$12,000 Robert Lansing
<b>GENNY ROYCE TOTAL</b>	<b>\$180,000</b>	<b>\$10,817</b>	<b>\$115,100</b>
Continental Western C00123568 Paid Up	\$4,840 Jack Royce	\$0 Jack Royce	\$2,900 Joint Trust
Equitable Combined 3 pol. Life	\$23,500 Jack Royce	\$0 Jack Royce	\$15,750 Joint Trust 1972
NSLJ V1334530-30 Ordinary Life	\$5,000 Jack Royce	\$95 Jack Royce	\$2,550 Joint Trust 1972
NSLJ V 1-34555-56 30 Pay	\$5,000 Jack Royce	\$102 Jack Royce	\$4,600 Joint Trust 1972
<b>JACK ROYCE TOTAL</b>	<b>\$38,340</b>	<b>\$197</b>	<b>\$25,800</b>
<b>GRAND TOTAL</b>	<b>\$218,340</b>	<b>\$11,014</b>	<b>\$140,900</b>

There are no estate tax consequences upon the death of the first spouse, but there may be additional estate tax consequences upon the death of the second spouse.

# Desired Objectives

OF JACK & GENNY ROYCE

## Personal:

- To maintain financial security during your lives.
- To maintain flexibility during your lives.

## Family:

- To minimize potential family conflicts.
- To treat your heirs fairly upon your demise.

## Business:

- Have turned over the ownership of the business to your business heirs.
- To pass the business intact to your business heirs.

## Financial:

- To minimize your estate taxes.
- To minimize administrative costs at death.
- To facilitate gifts to your heirs.

# Objectives Achieved and Not Achieved

## OBJECTIVES ACHIEVED

### Personal:

- You have the means of remaining financially secure during your life.
- Your current estate plan allows you to maintain flexibility.

### Family:

- Your estate plan treats your heirs fairly upon your demise.

### Business:

- You have a way to pass the business intact to your business heirs.

### Financial:

- Your revocable living trust minimizes administrative costs.

## OBJECTIVES NOT ACHIEVED

### Family:

- Your estate plan does not minimize the potential for family conflicts.
- Your estate plan may not treat your heirs fairly upon your demise.

### Business:

- You have not arranged your business affairs so as to be able to eventually turn over the actual operation of your business to your heirs and yet retain financial control during your lifetime.
- It may be difficult to pass the business intact to the business heirs and still treat any non-business heirs fairly at your demise because of the nature of your assets.
- You have not created a business-like approach between family members and the business in order to have the business survive and create harmony within the family.

### Financial:

- Existing wills should be examined by your attorney to make sure you are taking advantage of the recent tax law changes in federal estate tax law.

# Suggestions for Consideration

## MINIMIZE ESTATE SHRINKAGE

### Current Situation: Separate Property

At the death of a spouse, there is no stepped-up basis.

### Consideration: Change to Community Property Ownership

Consider an agreement between you and your spouse that all separate property assets shall become community property, thereby obtaining stepped-up basis. There are considerations other than economic.

## MINIMIZE FAMILY/BUSINESS CONFLICTS

To minimize the conflicts that arise in families, it is important to recognize and acknowledge their cause. The fear of conflict itself is often a source of conflict. The solution to the family member who fears the conflict then is to not disagree openly. Most times these matters can be resolved through the processing of the conflict itself, though it is sometimes useful to do so with a third party present who can ensure that all views are brought up and dealt with.

Often, the origins of these conflicts stem from the interplay of personalities in the early family history. One of the most frequent causes of conflict is lack of effective, honest communication. Business families tend not to take the time to discuss items that are important to all family members. The topics become “shelved” for later, and it seems that later never comes. The result is that these unstated concerns transform themselves into anger and resentment and these are often expressed in ways unrelated to the real concern.

Another cause of conflict is the inability of the family to make a distinction between family life and their business life. While very often this is a blur, it is because the families don't take the time to establish family business purpose and family harmony. Once goals are established, it is important to communicate them to all family members to air and resolve conflicts with other's goals.

When more than one family member is involved in the operation of the business, conflicts can arise over compensation and responsibility, and sometimes commitment. It is not uncommon to hear “I work harder than he does and we get the same pay” from two children. For this reason it is important to spell out responsibilities so that each family member knows exactly what his/her responsibilities are. Furthermore, among family members it is valuable to foster and develop a sense of cooperation.

To increase family harmony and business profitability we recommend you create a more business like approach.

## **PASS BUSINESS INTACT TO THE BUSINESS HEIRS**

There are several alternatives to be considered, none of which are mutually exclusive. You may consider any or all of them.

### **Alternative A: Pass Assets Under a Revocable Living Trust**

Benefits to be achieved:

- Allows you to maintain your financial security, as you will be able to continue the business.
- Permits you to maintain control.

Potential problems:

- Fails to minimize estate taxes because: as the value of the business appreciates, much of the increase in value must be used to pay the increased estate taxes.
- May prevent you from treating your children fairly at your deaths unless all of your children wish to be involved in the business.
- Fails to assure your children, even if they should decide to remain and spend years working in the business, that they will be able to inherit it (unless an option to buy the business is agreed upon). You, at any time, could change your trust and disinherit any or all of your children. In addition, economic conditions may be such that the business would have to be sold either before or after your death to discharge unexpected indebtedness or estate shrinkage costs.

### **Alternative B: Create A Business Continuation Agreement**

Benefits to be achieved:

- Permits you to keep the business intact for the business heirs.
- Permits you to treat your children fairly at your demise.
- Prevents non-family members from maintaining an interest in the property unless other family members agree.
- Allows you to provide for your family's financial security through the funded Business Continuation Agreement.

Potential problems:

- The business heirs would need liquidity to buy out the non-business heirs' interest in the business.

- Any decisions regarding the future ownership of the business become multilateral rather than unilateral.

## **CONCLUSIONS**

In view of your current family objectives, and business and financial situations, it is recommended that you consider implementing the following:

### **Disposition of Your Estate at Death**

- You should review your living (revocable) trust (see Glossary: Trusts, Living Trust, Revocable for definition) and determine if all of your assets have been transferred to it in order to pass your property outside probate, thus saving probate costs and enabling you to pass your property quickly and privately.
- Your Wills should be reviewed. They will dispose of your personal effects that are not included in the living trust.
- With regard to property ownership, where husband and wife will retain title to property, you should consider converting any property held separately or in joint tenancy to community property to provide for a stepped-up basis. (Basis may also be stepped down if assets have declined in value between the date of acquisition and the date of death).
- Each of you should review your Durable Power of Attorney in case of injury or disability of either spouse (see GLOSSARY: Power of Attorney, Durable). Re-examine successor appointee.
- Examine your durable Power of Attorney for health care to update your Living Will.
- You should see your attorney for a review and update of your existing legal documents to ensure that your objectives are achieved, and solicit his recommendations for additional “tools” needed.
- Your attorney should examine your present will and trust to determine if they require changes to take advantage of current tax laws.

### **Gifting**

- To help reduce your taxable estate each of you could take advantage of the Annual Gift Tax Exclusion up to \$10,000 per recipient by giving corporate stock, create a limited real estate partnership or give an undivided interest in real estate, or gift life insurance.
- You could also consider making a gift using part of your Unified Tax Credit now which translates into a gift of property worth a maximum of \$625,000 per spouse. Such a gift would further reduce your taxable estate to the extent of any post-gift appreciation of the property. For example, if a por-

tion of the estate is taxed in the 50% bracket the estate tax savings could exceed \$312,500 per spouse.

- A gift may also be made by using a Wealth Replacement Trust for the benefit of your family. This trust may transfer life insurance on your life to keep the proceeds out of your taxable estate and provide liquidity in the event of your death. However, transfers to a Wealth Replacement Trust will not qualify for the gift tax annual exclusion unless special trustee provisions are added.

### **Minimize Potential Family Conflicts**

- Execute a written Business Continuation Agreement (see Glossary: Business Continuation Agreement) to assure the uninterrupted continuation of your business within your family without outside interference. Should provide terms for the valuation and purchase of principal's interest in the event of early withdrawal, disability, and/or death (See Alternative B).
- We recommend family discussions regarding the family and how family members may plan for their individual families with a minimum of conflict. The results will create less stress and more harmony for all.
- It is recommended that you have scheduled business meetings to increase trust through communications. You should select a family member on a rotating basis to lead these business meetings. Weekly, monthly, and/or quarterly meetings are recommended.
- It is recommended that you include key non-family employees in your business meetings.

### **Liquidity**

- At this time, you should review your life insurance policies to determine if the type of contract ownership, and beneficiaries are consistent with your other planning and carry out your objectives.
- The conveyance of assets to the Living Trust and the lifetime gift program can help reduce your overall liquidity needs, and if your estate qualifies for Special Use Valuation (see Post-mortem Considerations) the amount of liquidity needed would be reduced further.
- Provide the necessary liquidity to fund the Business Continuation Agreement including buying out non-business heir's interest in the events of death, disability and retirement and/or pay the estate shrinkage costs and other debts without liquidating or encumbering your current business assets.

# Current Distribution of Assets

## UPON DEATH, BEFORE ESTATE TAXES & ADMINISTRATIVE COSTS

Heir/Description of Inheritance	Distribution
<b>Sally Royce</b>	
1/4 of community property*	\$272,500
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Sally Royce Total	\$272,500
<b>Tom Royce</b>	
1/4 of community property*	\$272,500
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Tom Royce Total	\$272,500
<b>Philip Royce</b>	
100% Royce Supplies/IPS only	\$470,000
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Philip Royce Total	\$470,000
<b>Wendy Royce</b>	
1/4 of community property*	\$272,500
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Wendy Royce Total	\$272,500
<b>Robert Lansing</b>	
1/4 of community property*	\$272,500
Beneficiary Genny MONY life policy A877603WS	\$50,000
Triplex Real Estate Arvin, MT, Genny Separate	\$102,000
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Robert Lansing Total:	\$424,500
<b>Vicki Schroeder</b>	
Duplex & vacant lot, Genny Separate	\$88,000
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Vicki Schroeder Total	\$88,000
<b>TOTAL TAXABLE ESTATE DISTRIBUTION</b>	
	<b>\$1,800,000</b>
Less Unified Credit	\$1,300,000
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Estimated Net Taxable Estate	\$500,000
Estimated Federal Estate Taxes	\$250,000

\* Less Royce Supplies Stock

# Proposed Distribution of Assets

## UPON DEATH, BEFORE ESTATE TAXES & ADMINISTRATIVE COSTS

Heir/Description of Inheritance	Proposed Distribution
<b>Wendy Royce</b>	
1/4 of community property*	\$256,000
1/5 of Wealth Replacement Trust**	\$43,600
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Wendy Royce Total	\$299,600
<b>Sally Royce</b>	
1/4 of community property*	\$256,000
1/5 of Wealth Replacement Trust**	\$43,600
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Sally Royce Total	\$299,600
<b>Tom Royce</b>	
1/4 of community property*	\$256,000
1/5 of Wealth Replacement Trust**	\$43,600
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Tom Royce Total	\$299,600
<b>Philip Royce</b>	
50% of Royce Supplies/IPS stock: present gift***	\$235,000
1/5 of Wealth Replacement Trust**	\$43,600
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Philip Royce Total	\$278,600
<b>Robert Lansing</b>	
% of community property to equal others*	\$154,000
Triplex Real Estate Arvin, MT specific bequest*	\$102,000
1/5 of Wealth Replacement Trust**	\$43,600
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Robert Lansing Total	\$299,600
<b>Vicki Schroeder</b>	
Duplex & vacant lot: specific bequest*	\$88,000
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Vicki Schroeder Total	\$88,000

<b>TOTAL TAXABLE ESTATE DISTRIBUTION</b>	<b>\$1,347,000</b>
Less Unified Credit (\$235,000 used in 1999 stock gift to Philip)	\$1,065,000
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Estimated Net Taxable Estate	\$ 282,000
Estimated Federal Estate Taxes <sup>#</sup>	\$141,000

\* Less Royce Supplies Stock and specific bequests to Michael and Vicki

\*\* Wealth Replacement Trust: \$218,000 life insurance will not be included in your estate for estate taxes, assuming insured lives three years

\*\*\* Proposal: Phil will presently purchase other 50% of Royce Supplies Stock using private annuity or installment sale

# Federal Estate taxes will be further reduced or eliminated if you each begin to make use of \$10,000 annual exclusion.