Family Owned Businesses

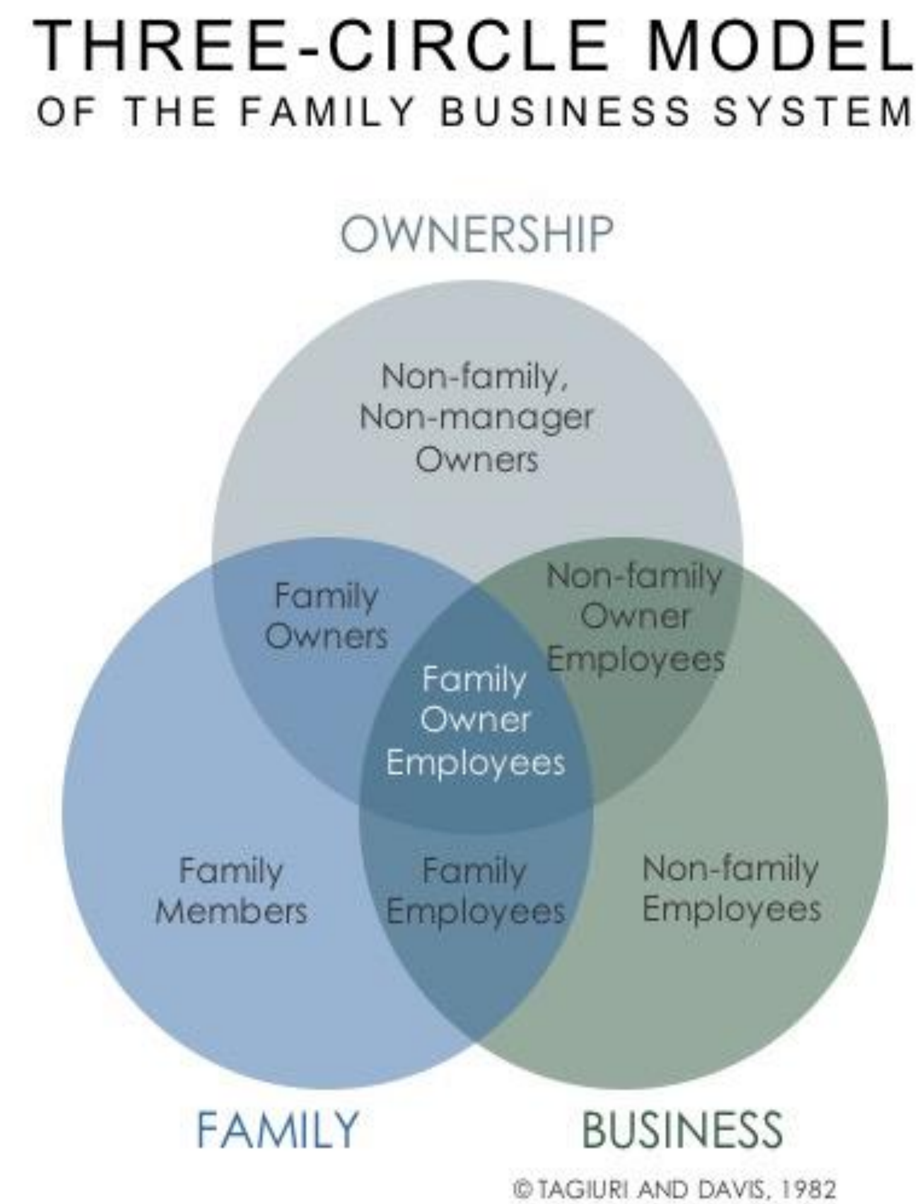
Family-owned businesses contribute a staggering amount to the Canadian economy. Often unrecognized, many of the biggest corporations qualify as family businesses. From large multi-million dollar organizations with operations in across Canada, to medium scale powerhouses within Manitoba who hope to continue their growth, to local individual storefronts that play a vital role in connecting their communities, family-owned businesses are integral to the economy. Family business is ubiquitous to Canadian commerce. Although no two businesses are identical, there are commonalities that can be identified within a demographic and family businesses are no exception. These businesses share many common strengths, such as clear company vision or strong community involvement, and face a similar set of challenges unique to their business structures.

It is important that business owners don't underestimate family-business specific dynamics. Effectively identifying and addressing these concerns will protect the longevity of the business for future generations. At the L. Kerry Vickar Business Law Clinic, we offer free resources, education, and legal services to Manitoba businesses. As a pro-bono clinic, we work with many small independent businesses. It is our belief that legal information should be accessible to everyone, regardless of education, social connections, or scale of business. A focus on family-business specific challenges reveals similarities between large and small family-owned companies, and although broad principles can be applied to both, certain issues are only applicable to either one. This webpage aims to be a resource for small family-owned businesses, by translating strategies employed by large family firms to help address legal concerns that affect the legacy of their business.

One of the biggest difficulties that family businesses face is transitioning their economic success to future generations. Whether the company dissolves or ownership is transferred outside of the family, the likelihood that a family business remains intact past the second generation is staggeringly low. With only 30% successfully transitioning into the second generation, 13% into the third, and 3% past that mark. Succession planning is evidently a key concern. Resources like this roadmap[1] can help navigate the process.

For family businesses in the first generation of operation, an early hurdle is formalizing their business structure. One of the benefits of family-owned and operated business is the ability to employ family members. There is a long-established rapport between family and many instances of friction in the early stages of business growth can be avoided. Communicating with family members compared to unrelated staff can look very different for business owners. The same applies to employment contracts, wage negotiations, and asking for days off, to name a few examples. When employees also family members, some formality can be bypassed and businesses can run smoothly on the strength of pre-established familial relationships. This is one of the greatest strengths of small family businesses and is not inherently a problem, but when looking forward to where the business may be in 3, 5, or 10 plus years, it is fair to predict this culture of tight-knit staff in unlikely to persist. Family-owned businesses should attempt to balance between capitalizing on the informality of family relationships and introducing legal measures to avoid future conflicts that may arise as a result of informality.

For some family businesses, their first step may be to incorporate a corporation. If they are operating as a sole proprietorship with employees, there can be benefits to incorporating in order to lay the groundwork for an organizational structure that will accommodate growth. After incorporation, the finances of the business will no longer only be tied to the founding owner. Separating business assets from family assets may seem unimportant if the net revenue of the business is generally distributed to the family and there is an intention to transfer the business to the next generation, but this separation may allow businesses to be transferred in a more tax-efficient manner.



At first companies will likely consist of the few members, many from the family. As the business grows it is important to consider the various roles that are present when people exist as part of ownership, business operations, or the family.

There are many more factors that influence the decision of whether to incorporate. Reflecting on the current organizational structure of your business and planning for the future is a step that can be taken at any point in the lifespan of your business. You can seek specific legal advice from the L. Kerry Vickar Business Law Clinic by filling out an intake form here.

[1] John L Ward, "The Special Role of Strategic Planning for Family Businesses": (2016) Family Business Review, online: <https://journals.sagepub.com/doi/pdf/10.1111/j.1741-6248.1988.00105.x>.