

# WAIT AND SEE BUY/SELL

## HOW IT WORKS

Sometimes it's not clear which buy/sell arrangement should be used. In such cases, a wait and see buy/sell still guarantees the purchase will be made but defers the decision on whether it will be a cross purchase or stock redemption buy/sell. The agreement typically gives the company the first right of refusal in purchasing the stock. If the company doesn't exercise that right, then the owners can purchase the stock directly. If they decline, then the company is mandated to make the purchase.

## PROS

- By whom the deceased owner's stock will be purchased can be decided at the time of purchase. The company or owners can choose to buy all or part of the stock. Regardless, all the stock must be purchased.

## CONS

- When the company is a C corp, and is given the first right of refusal, care must be taken to avoid the purchase being treated as a dividend.

## SUMMARY

A "wait and see" buy/sell is best used in conjunction with a trustee agreement, when life insurance is used for funding. Not having a trustee creates problems as to who should own the policies, who should be the beneficiaries, and having to have too many policies, if there are more than two owners. The trustee also avoids the tax trap (in a C corp) of the purchase price being treated as a dividend, if the business has the first right of refusal.

