Case Study 1

Name of the Writer

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**Q1**

There are 5 main types of business entities and they are as follows (Forsythe, et al, 2016).

**Sole proprietorship**

This form of business is under the control of one man and it is considered the simplest form a business can take. The business has no existence without the owner and any liability associated with the business is the liability of the owner.

**Partnerships**

Consists of an agreement between two or more people, who come together to form a business venture. Each partner has to bear the profit and loss of the company but only according to the amount of their investment into the business.

**Limited Liability Company**

This is a combination of a partnership and a corporation. Its operation and income are divided similar to a partnership but it allows for very limited exposure to liability. There are some statutory differences between this and a limited partnership.

**Corporation**

This is a legal entity and is constructed under state law. In order to establish a corporation, articles of incorporation must be filed with the state. Furthermore, its stockholders are protected from liability.

**S- Corporation**

These are closed corporation specially created in order to grant small corporations some form of tax benefits. If all requirements of IRS are met, owners avoid double taxation such as the case with regular companies.

**Q2**

According to product liability law, a manufacturer is liable if a defective product is given to a consumer and it causes harm. With Fred’s product, the problem arises when it is taken in conjunction with aspirin as it leads to a severe reaction. In order to mitigate this risk, Fred should inscribe it on the packaging of his products and on the product itself of the harm it can cause if it is taken with aspirin. This would minimize the chance of anyone having a severe reaction because instructions would be clearly mentioned on the bottle.

**Q3**

In my view, Sam’s involvement in the business before and after its creation would not lead to an agency relationship. This is because the business is his fathers and both him and his father would have the single goal of making it bigger. This allows for no self-interests to exist in the actions of Sam. Furthermore, even if Sam role would be an employee, he would still inherit the company one day. This means that he will still have to work on making it successful if he wants to take the reins one day.

**Q4**

The primary issue that Fred might face is legal restrictions that prohibit the use of his home for business use. Certain covenants prohibit the use of the home property for business use. Furthermore, if any nuisance or damage is caused to the neighbors because of the business they have the legal right to take Fred to court. Also, if Fred has taken out a mortgage or is planning to take out a mortgage on his farm to start the business there also might be restrictions in that that prohibit him from starting a business at his home.

**Q5**

The manufacture of the cough syrup will require a transfer of ownership because the owner of the lands decides what occurs on his land (Nancekivell, et al, 2018). The family can choose either simple interest or joint estate form of ownership. The better option would be the simple interest as this will allow Fred to hold ownership of the land and he has the right to make decisions regarding whatever he wants to do with the land without taking any recommendations from his family. This gives Fred the sole power to either dispose or use the land for his own use.

**Q6**

There are several personal property issues that can form from using Sam’s personal vehicle for business use such as vehicle liability, and vehicle policies (Hughes, et al, 2019). If Sam gets into an accident while on a business errand, the compensation for this accident will be paid by the business making it a liability. Furthermore, vehicle policies would need to be drafted which will dictate how much of the car's expenses would be paid by the business back to Sam. As Sam would be covering the expense of the car from his own pocket, under state law businesses are supposed to pay the expenses of vehicles used for business purposes.

**Q7**

In the case of the business, it will be subject to liability if Sam’s personal vehicle is used in the course of the business. This liability is known as vehicle liability and stems from the fact that accidents happen on a routine basis on roads. So if in any scenario Sam’s car gets hit or gets into an accident, the other party can sue the business in order to gain compensation for their damages. As Sam would be acting within the activities of the business, the courts will administer that the business is liable to pay for the damages.

**Q8**

The issue in terms of estate planning will have detrimental effects on Fred’s family if he dies without a will. If Fred doe not have a will so his property will be divided by the laws of the state. Furthermore, the farm and the business would be divided within his children on the basis of the prescribed law. This would not always align with Fred’s wishes. So if he does form a will before his passing, it could definitely lead to a lot of infighting among his family members. This can be because of the conflicting ideas of how to take their business forward.

**Q9**

Fred and Sally have two important methods of estate planning that they could use in order to transfer ownership to Sam and Lily. These can be a will and or a trust (Nathanson, et al, 2018). Through a will, they would be able to equally divide the ownership of the farm and the business to their children as it is a legal document that is implemented by law but it comes with problems such as estate taxes. Whereas, a trust would also be able to transfer ownership of the property and the business to Sam and Lilly. The trust avoids the estate taxes but cannot be easily revoked

**Q10**

The best recommendation would be to treat the business as a sole proprietership. This would allow dor Fred to have complete ownership of the business. Furthermore, he needs to devise a policy regarding the use of Sam’s vehicle for business use. Lastly, he should create a will that outlines how the business and the property would be distributed among his children after his death.

References

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