

A guide to long term wealth planning for business owners

The key to ensuring a business owner maximises the returns from their business, both for themselves and their family, whether ultimately the business is to be sold or to be passed on to the next generation, is to plan in advance. Obtaining proper advice should be a main feature of the planning and the opportunities available to maximise returns will obviously depend on individual circumstances. This leaflet is intended to give a short summary of some of the main issues that may be relevant to any business owner.

Whilst still owning the business...

Business Property Relief

A very valuable relief from Inheritance Tax (IHT) known as Business Property Relief (BPR) can apply to shares in companies, the business interests of a sole trader/partnership and assets owned personally but used in a business. It is easy to assume that BPR will automatically apply to these assets but there are a number of conditions that need to be met and without proper advice inadvertently BPR could be lost.

Not only is BPR important on your death but it may also be relevant to any lifetime gifts you make (see below), in particular it may avoid upfront IHT charges that would otherwise occur on gifts into trust. It is therefore recommended that the availability of BPR is considered at an early stage before any sale or gifts are made.

Wills

You should make a Will to ensure that, when you die, everything you own will pass to your chosen beneficiaries. Even if you have a Will it should be reviewed on a regular basis to take into account changes in legislation and your personal circumstances.

For a business owner it is even more important to ensure that you not only have a Will but it is correctly structured so that the business passes to individuals who are able to manage it following your death and any potential BPR (referred to above) is maximised. A trust structure under the Will may be an appropriate option both to maximise BPR and also to retain control and flexibility over the business assets.

Shareholder/Partner cross-assurance

Where a business is owned by unrelated individuals it is often sensible to provide a mechanism on the death of one shareholder/partner for the other shareholders/partners to buy-out his or her shares/interest. This will ensure family members receive the value of the deceased's share of the business but the surviving shareholder/partner will not be obliged to continue in business with those family members. Life assurance will often be taken out as part of these arrangements but careful planning needs to be undertaken to ensure no tax reliefs such as BPR are lost.

If the business is to be sold...

Many business owners wish to pass on at least some of the proceeds of sale to the next generation. In which case, if outright gifts of the proceeds are intended, it may be appropriate for part of the business to be given pre-sale to children or other family members (although there is a risk of challenge if this takes place immediately before the sale).

Alternatively a trust may be preferable to an outright gift in order for the seller to retain some control, to defer determining in what proportions the next generation should benefit, and to avoid outright gifts at an inappropriate age. As mentioned above, as BPR will often apply to the shares or business interests, gifts to a trust prior to the sale may avoid upfront IHT charges that would otherwise occur if the cash proceeds were given to a trust.

The Capital Gains Tax (CGT) implications of any pre-sale transfer need to be carefully considered, in particular the impact on Entrepreneurs' Relief (a valuable relief from CGT that replaced business asset taper relief).

If the business is to be gifted...

In due course a business owner may wish to pass their business on to the next generation but may want to do so gradually over a period of time. Various factors will need to be taken into account, for example will an income still be required from the business and if the business is being passed on to one child (in preference to others) should any steps be taken to offer some benefits to the other children. Restructuring of the company's shareholdings may help to resolve these issues. The use of trusts, particularly where the previous owner remains as one of the trustees, may enable a transition to be properly managed while retaining tax advantages.

After the business has been sold or gifted...

The sale or gift of a business is a significant event. As well as changing the nature of the business owner's assets it may also result in a change of lifestyle, location and new investment opportunities either for business or pleasure.

Advice should be sought as to the most appropriate investment of any sale proceeds. This may involve pensions, stock market investments, property or perhaps involvement in a new business. This may also be an appropriate time to consider whether there is surplus wealth that can be given away, either directly or by way of trust, and thus reduce the assets that will be subject to an IHT liability on death. It is also advisable for Wills to be reviewed and updated.

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