

Business Succession Planning

People pass away but your business doesn't have to

Without a business succession plan, the death or disablement of a business partner could be catastrophic. However, many small businesses fail to address succession planning believing that such a catastrophe will not happen, considering the process is too long or too expensive or putting succession planning off when things “quieten down”.

Buy/Sell Agreement

A buy/sell agreement is an arrangement for the transfer of a deceased or disabled owner's interest in the business to the remaining owners. This ensures that the departing owner (or their family or estate) receives fair market value for their interest in the business. It also ensures the remaining owners have exclusive ownership and control of the business.

Insurance is commonly used to fund the purchase of the business interest under a buy/sell agreement. This is because an insurance funded buy/sell agreement avoids the need for the remaining owners to finance the purchase of the business using additional debt or using other resources.



Case study

The following case study illustrates how things can go wrong without a business succession plan.

Georgina, aged 35 and Richard, aged 42, are directors and equal shareholders in a consulting engineering firm with an estimated value of \$3.6m.

Tragically, Richard dies leaving behind his wife, Alison, and two young children. Other than the family home, his interest in the business was his main asset which passes to Alison under his will.

Prior to death, the business had relied heavily on his involvement. As a result of his departure, significantly less revenue will be generated. Georgina knows she should employ someone to replace Richard but is concerned about cashflow. Richard and Georgina provide personal guarantees of \$600,000 to cover the debts of the business. Under the terms of the loan agreement, the outstanding debt is immediately repayable following Richard's death. Georgina was able to refinance the debt, albeit, at a higher interest rate. This is fortunate for Alison as Richard's estate would have been jointly and severally liable due to the personal guarantee he provided.

Alison needs cash urgently as she is having difficulty meeting living expenses without Richard's salary. Alison and Georgina previously had a good relationship but this has deteriorated following ongoing disagreements over the amount she will receive for Richard's share of the business.

In addition to the pressure of managing the company without Richard, Georgina realises she is now in business with Alison as she now controls 50 percent of the company – a situation likely to result in further conflict.

How it could have been avoided

Richard and Georgina could have entered into a buy/sell agreement funded by insurance policies covering death, disablement and trauma.

Pursuant to the buy/sell agreement, Richard's 50 percent shareholding in the business would be transferred to Georgina following his death. Alison would receive \$1.8m which was the amount of the insurance policy taken out to fund Richard's side of the buy/sell agreement. In essence, the buy/sell agreement would have ensured Alison and Georgina received what they needed at the time of Richard's death.

Implementing a business succession plan

Business Ownership Continuity Plan

TRANSFER AGREEMENT

Clear and valid agreements (buy-sell) within a transfer plan in the event of an owner exiting the business

All business owners in agreement on the process should any suffer critical illness, disablement or death.

FUNDING AGREEMENT

Ability to fund the transfer of ownership via insurance. Insurance to be taken out individually or jointly

Will take into account each owner's specific circumstances and tax considerations.

PERIODIC REVIEW

Review plan as current business owners leave the business and new owners join.

Ensures consensus on transfer between owners and funding remains appropriate.

Get in touch with Tribel

Contacting Tribel is easy. Call to speak to one of our advisors, or you can email us to find more information on our website.



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