WINTER 2020

For Business

Time to start succession planning

You need plans in place early for a successful handover

Helping you through the exit

Advice from our experts will help with your strategy

Reasons for an exit

Some common reasons for a business exit

Can Intellectual Property Rights provide retirement income?

There are many options to consider

“He wants to be a b****y artist?”

...was the angry reaction of a self-made businessman who’d just discovered that his son had no intention of succeeding him in the family business. A first class education and a privileged upbringing had just come face to face with the prospect of a lifetime in waste disposal.

Somehow, the father hadn’t divined his son’s ambition to be an artist, nor had he communicated his own ambitions, and his son’s role in his plan to retire at 55. It wasn’t a plan, at best it was a dream and needless to say he didn’t retire at 55!

Stories like this are not uncommon. The metaphor in the story from a succession planning perspective is the need for early communication between the parties involved. The earlier the better.

Demographic data and anecdotal evidence suggest there is a large rump of baby boomer entrepreneurs now heading to retirement. It is becoming increasingly clear that the need for planning in this area has never been more prescient. A worrying truth is that many of these boomers still have little or no idea how they’ll exit their businesses and they continue doing nothing, kicking the can up the proverbial street.

In the term succession planning, it’s the second word, planning, that’s generally overlooked. While we all know we can’t go on forever, many don’t want to face up to the reality of one day hanging up our boots. Proper planning means confronting the reality in good time to enable a phased handover to a person or team that’s willing and, in time, will become prepared, to take the business on. That means getting the issue out in the open with the people who will be running the business in the future, as early as possible.

So, if planning is the key, here are some thoughts to make it easier...

Start thinking about it as early as possible. Typically, 6-8 years ahead of an expected retirement point. Yes, that early!

Frank conversations are key...whatever you do, don’t make assumptions. The lack of a plan may cause unease. Senior workers might feel there’s no future for them, while younger workers get frustrated waiting for them to move on. Succession is more than simply stepping up to a leadership position when a leader retires. You should invest in learning and leadership training before the leader leaves, and give the successor the opportunity, at least early on, to make key decisions, coached by the leader.

Accept that keeping it in the family might not be easy. Business owners need to understand that their children may have other interests and ambitions. Once again, honest conversations as early as possible are absolutely vital.

Let go. One of the biggest challenges with succession planning is the difficulty many people have in letting go. Many find comfort in thinking that there are lots of tasks only they can do. This is a highly charged area and an objective third party can help ensure the planning process accommodates these sentiments.

Once you’ve started, stick with it. You will inevitably have to balance succession planning with the day-to-day business needs. Plan and diarise regular conversations and realistically assess the increasing readiness for handover.

Planning your business exit

As Adrian mentioned above, we all know that it is better to plan things in order to avoid ending up somewhere we didn’t plan to be!

You need to get your business in the best possible shape for an exit – in whatever form that may take.

Careful planning will:

- Ensure you mould your business into the ideal shape for your chosen exit option – maximising the value you get from it;
- Ensure your family and your business is secure if anything should happen to you in the intervening time;
- Enable you to groom successors if they are coming from within the business - whether a family member or part of your management team;
- Ensure you are prepared - and, so far as is possible, exit at the time of your choosing, when conditions are advantageous.

Owner managers can find the prospect of selling or retiring from their business a disturbing one – issues related to the future continuity of the business feature high on the entrepreneurial worry list. Careful preparation can do much to lessen such fears and will give you an opportunity to establish:

- whether the younger generations of your family have different plans;
- whether they, or your management team, are ready to take over the business; and

So, how do we start, whom do we talk to for advice?

One's professional advisers are a good start point. Your solicitors, accountants, bankers and, increasingly, independent business advisers and specialists. Then there's your personal network and of course your family.

The most important thing is to start planning now.

Adrian Collins is an experienced businessman having built and run a successful international brand consultancy for the last 25 years. Prior to the brand consultancy Adrian worked on strategy with Ford for 8 years, and in sales with Unisys and finance with B&C Merchant Bank. Adrian sold the consultancy business in 2018 and is now working as a Business Adviser within the Pro-actions network helping business owners with succession planning.

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Exiting a business

Decreasing profit, retirement, changes in life goals or increasing competition in the marketplace are all reasons for exiting a business. Some exit their business of their own volition; others have no choice. Some of the common ways of exiting a business are:

Liquidating a company
If a company is unable to pay its debts and is beyond rescue, it can be brought to a close (wound up) and the debts of the company will be dealt with as part of the process. A "creditors' voluntary liquidation" will allow creditors to recover as much money as possible, where there are realisable assets. Another form of liquidation is "compulsory liquidation", which requires an application to the courts.

Share buyback
A shareholder in a company may wish to exit by way of a share buyback, where the company purchases his or her shares. There are strict rules set out in the Companies Act 2006 that must be followed to effect a buyback.

Selling the business
There are several ways in which a business can be sold, including the sale of its assets or, in relation to a company, the sale of all the shares in that company.

If you would like any help or advice regarding your exit, please contact me.

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- if planning to sell your business, help you avoid being an ill-prepared seller being haggled down from your starting price.

Planning will help you identify where you need assistance, whether that is expert guidance on different exit options, advice on associated tax or other implications or advice on the best way to prepare.

There are a number of very different ways of achieving an exit to consider, and a good quality adviser will be able to help you identify the best options for you, working with your other advisers to align those with tax planning. Having a plan enables you to focus your efforts on your business and what is required to achieve your exit goal.

"A goal without a plan is just a wish"
Antoine de Saint-Exupéry

Our Business Team are experts in advising and assisting business owners with their exit strategy, please contact me if you would like to discuss your options.

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"Birkett Long LLP were, without exception, lovely people to deal with, highly professional, proficient and most importantly, commercially formidable. My complete trust was well founded."

"The team is a pleasure to work with. They are responsive, competent, well-organised and deliver their services efficiently."

Business disposal and Intellectual Property Rights

There are many different Intellectual Property Rights (IPRs) that a business or business owner may own.

For example, there may be copyright in written and artistic works, the business name and/or the names of particular goods or services could be protected by way of registered trade marks. If the company is innovative, it may also own patents. Since IPRs are frequently the most valuable part of the business, alongside other intangible assets such as goodwill, including IPRs as part of a sale will greatly increase the price and a purchaser will want to try to ensure they are included.

Whether the IPRs should be retained as an additional source of income to supplement a pension depends greatly upon the nature of the business. Some rights might be overlooked by a purchaser and not be part of a sale. Income may be derived in a number of ways, though usually the IPRs would be licensed to the business acquirer, or to an alternative business. The duration of different IPRs differs however. Trade marks can be renewed indefinitely, and copyright generally lasts for the author's life plus 70 years, whereas patents generally last only 20 years from the date of filing. Consideration must therefore be given to the types of IPRs that are owned as to whether they could provide long term post-retirement income.

If you would like to discuss any IPR matter, please get in touch.

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Reference: NEWS/
FORBUSINESS/WINTER2020