Estate planning for business owners

Initiating a professionally guided formal estate planning process helps business owners anticipate future challenges, successfully managing succession so that their businesses continue to prosper and grow even when they're gone.
Estate planning for businesses is substantially different from personal estate planning. It is important for business owners to understand and develop a separate and different succession plan for their businesses
Coronation Trustees suggests that each business owner consider the following issues when planning for the succession of their business should they become incapacitated or when they pass on.

Define personal and business assets

It is critical for business owners to clearly define – and separate – their business assets from their personal assets. In cases where business assets are also personal assets it is critical to detail the difference, laying out clearly how family and business partners will proceed after you have gone. Failure to separate the assets might result to legal actions that might impact personal assets and finances.

Last will and testament

For Bequeathing purposes, a last Will and Testament allows you to specify which assets are business assets, and which are personal. A Will also allows you clearly define and nominate who you want to pass your assets on to when you pass away. Without a will, your assets are considered intestate, and your assets are distributed according to the inheritance laws of your state, not the requirements of your business.

Living trust

While a Will is important in defining and separating out your business from your personal assets, it is only the first step.

Once your business assets are clearly defined, setting up a living trust allows you to nominate a trustee to manage your personal and business assets separately on behalf of both your family and business beneficiaries after you pass away. A living trust also comes in to play in the event you become incapacitated, or anything happens before you die that prevents you being able to manage your business or personal affairs.

A properly structured living trust should also anticipate and prepare for business succession based on the structure of your business. For example, businesses co-owned with other parties require a specific and clearly defined succession structure. Similarly, if you are married and both you and your spouse participate in managing or benefitting from the business, a detailed structure of what happens after you die or are incapacitated is necessary.

In short, a trust can ensure that your spouse and other business partners can continue running the business after you have gone with minimal disruption, tax or cost.

Three areas that any comprehensive business succession plan should cover

i) Laying out who will run the business if you became incapacitated, retire, or eventuality occurs?

Depending on how the business is structured, options include:

- Passing the business on to a family member
- Selling your ownership share to your partner(s)
- Selling the business to a third-party buyer
- Closing the business down entirely

Each of these options requires a different estate plan to ensure that they are successfully brought about with minimum disruption or cost to either family members, business partners, suppliers or clients.

ii) Insurance

Having the right insurance is important for your personal finances as well as your business.

Typical insurances included in a comprehensive estate plan and business succession include:

- Life insurance
- Disability insurance
- Key person insurance is required in instances where buy-sell agreements stipulate the conditions under which one business owner can buy out the other's share.

iii) Estate taxes

To avoid leaving your heirs or business partners debt it is important to minimise the amount of estate, inheritance or gift tax that they will be responsible for.

Setting up a trust is often an efficient mechanism to minimise taxes. A trust, for example, can be set up for a specific number of years, allowing you to pass assets on to the next generation with little to no gift tax while continuing to benefit from the income generated by the assets in the trust.

There are many different trust options and types, including revocable and irrevocable trusts. It is important to seek professional advice on which type of trust best suits the succession needs of your specific business, business partners and family.

Conclusion

In short, there are a variety of circumstances, obligations, taxes and responsibilities that arise for families, spouses, business partners, suppliers and clients should you become incapacitate or when you pass on. These implications only increase where family members are involved in businesses, you are involved in multiple businesses, or businesses exist across multiple jurisdictions.

Also, since estate plans will need to evolve with your changing circumstances, it is important to regularly review both your business and personal estate plans. This is particularly important if you experience a major life change, such as the birth of a child, a divorce, an increase in business partners, or as you start new businesses. For example, if after a divorce, your spouse is still listed as the beneficiary of a trust that contains your business assets your former spouse would still have access to those assets.

Given the complexities of separating personal and business assets and then setting up the right business succession plan cognizant of your unique circumstances, involvements an obligations, it is critical to seek professional advice when constructing an estate plan.

At Coronation Trustees, we can help you with all of your personal and business succession objectives. We have a seasoned and experienced team that can assist to set up a bespoke plan that is convenient, efficient and tax effective. We would walk with you through the process as a partner and confidant. Call us today on +01 2797644-47 or email us on trustee@coronationnt.com to get started