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UPDATES
APRIL 2020

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PLANNING TO SELL OR PASS ON A BUSINESS

When is the right time to start planning?

Even if retirement is decades away, it is never too early to start considering your exit plan from your business.

There are plenty of potential minefields and complexities to consider. So the sooner you start thinking about exiting your business, the smoother it should be.

SUCCESSION PLANNING OR SELLING?

The first key decision is whether you are planning to pass the business on to someone else or hoping to sell it.

The former could have inheritance tax and capital gains tax implications, the latter may have capital gains tax and potentially some other tax consequences as well.

Passing on your business

Factors to consider if you are planning to pass your business on to someone else:

- do you still want to have any involvement or control?
- do you own any of the assets used in the business?
- do you need to release any capital to fund your retirement?

All these decisions may impact your tax position and that of your successors, so good planning is vital to achieve your goals.

Selling your business

There are two main ways to sell your business. You can sell the assets, either as a going concern or just a sale of assets.

Another option is to sell shares if you own a limited company.

Similar tax principles and reliefs apply for capital gains tax whichever way you sell the business, but the detail differs depending on what you are selling, and other taxes may also apply depending on the approach you take.

TAX OBLIGATIONS OF SELLING UP

Capital gains tax

If your business has been profitable, it's likely there will be capital gains tax consequences arising from disposing of your assets or shares.

Your gain is usually the difference, or profit, between what you paid for your business assets and what you sold them for.

There are also tax reliefs available, primarily entrepreneurs' relief, while other reliefs are available in certain circumstances.

Entrepreneurs' relief reduces your capital gains tax bill to 10% of gains from selling shares or business assets in a business you've owned for at least two years, subject to a lifetime limit of £1 million of qualifying gains.

Capital gains tax applies if you give assets away as well, although you can (with the recipient's agreement) apply gift holdover relief.

This means that any gain you make is added to the recipient's base cost when they come to dispose of the assets.

This is really deferring the tax rather than gaining permanent relief, and it is designed to enable a smooth transfer of a business without negative cashflow impacts.

Inheritance tax

If you are passing on your business, its assets (or shares) count as part of the valuation of an estate and may be subject to inheritance tax.

This is unlikely to be an issue if you know you are going to live for at least seven years after making any transfers, although if you are considering using a trust to hold the assets (rather than gift them outright) inheritance tax may be due immediately.

If death duties are payable, possibly due to trust complications or untimely death, then all is not lost.

Business assets attract business property relief if the business is 'mostly trading' and you owned the assets for at least two years before the transfer or death.

As it provides 100% relief for qualifying assets or shares in an unlisted company, it is very valuable in succession planning.

However, the business must usually be engaged in trading rather than investment activities, that is, not renting property, investing in shares or similar 'non-trading' undertakings.

For example, if you own a shop but rent the upstairs flat to someone else, then part of your asset (the shop) is trading but the part you rent out is classified as non-trading.

Conduct regular checks to ensure the value of the trading parts of the business exceed the value of the non-trading parts.

This is because business property relief is an 'all-or-nothing' relief – you either qualify and get 100%, or you don't and have to pay the full amount of inheritance tax.

OTHER TAX CONSIDERATIONS

Mixed-use assets can lead to unexpected tax liabilities.

If you're selling a private home, any part of the property that was used for business may be liable for capital gains tax as you could jeopardise your ability to claim business property relief.

However, with careful planning, which we can help with, there may also be the chance to shield non-trading assets which might ordinarily attract inheritance tax within a larger trading business.

Other taxes may also kick in, depending on the disposal method.

If you own the assets of the business and have claimed capital allowances against them, you may need to pay some of this back as part of your income tax return.

VAT might also be due on the sale of your assets if you are not selling the business as a going concern.

If you sell shares in your business, your buyer may need to pay stamp duty if they are based in England or Northern Ireland.

IT'S NOT JUST ABOUT TAX PLANNING

If you are passing on your business or selling it as a going concern, you need to ensure the business can run without you.

Taking a back seat in the months or even years before retirement enables you to groom your successor, or for you to be able to show future investors the business is viable after you've left.

If you are selling your business as a going concern you also need to make the business look as attractive as possible.

For example, how would an outsider view your business? Buyers will want to look a long way beyond your financial statements before agreeing a purchase price.

What does your customer base look like and is it growing? Are you paying bills on time? Will a new buyer need to substantially invest in the assets of the business? Do you have any ongoing disputes or potential liabilities that might put buyers off?

If you're planning a partial exit strategy to fund your retirement, think about how you will continue to draw income from the business and the level of control and involvement you want to keep after you step back.

DON'T FORGET ABOUT PENSIONS

Saving for a pension can be a tax-efficient way to withdraw money from your business.

In certain circumstances, it may also be possible to put some of your business assets into a pension and attract the same tax reliefs.

This is a very complex area and you should seek expert advice if you're thinking about doing this.

Contact us to discuss financial planning.