



CORNERSTONE WILLS

Is your business protected in the event of your death?

As a business owner what steps have your business partners and you taken to protect your business and your respective families in the event of your death?

Without the full and proper protection in place, you are leaving your business and your family exposed not only to the taxman but also to potential financial disaster.

Your business could be forced to close because:

- It is unable to find sufficient funds to buy back a partner's shares from their family;
- You are in a partnership and there is no Partnership Agreement in place.

You could lose control of the business because:

- The partner's shares have passed to their family members who now want to be involved in running your business despite your wishes to the contrary;
- The partner's shares have passed to their family and they want to sell them to a competitor for a higher price than you can afford to pay.

Your family could receive an unfair value of your shares because:

- There is no agreement in place to determine the share value or on what basis the shares are valued so the company could offer less than market value to your family or, worse still, they are valued according to The Memorandum of Association which often values such shares at a default value of £1 each;
- The company has insufficient funds to pay your family the true market value of the shares.

Your family could pay unnecessary tax to the taxman because:

- Where the transaction of shares is mandated on death (as is usual within an off-the-shelf Articles of Association or a binding agreement), then such business assets will no longer be eligible for 'Business Property Relief' (BPR) and are therefore included in the taxable estate;
- Whoever the shares are left to, if your beneficiary then sells those shares, the benefit of any BPR will be lost on their subsequent death.

These problems could all be avoided by letting us help you put planning and protection in place.

So what do we do to help you and your business?

The Cross-Option Agreement

This is an agreement that can be put in place by the joint owners of a business in conjunction with life insurance policies that are taken out for each business partner. The policies will reflect the value of the business relating to each partner as agreed by all parties and re-valued as specified in the agreement (e.g. after submission of year end accounts.)

There is an "option" involved for both parties to the agreement. If the surviving business partners want to purchase the deceased partner's holding in the business (his or her "shares") then the beneficiaries of the deceased partner's estate must sell. Conversely if the beneficiaries want to sell the shares, the business partners must buy.

It is important to note that this is a non-binding agreement which means that when the estate is assessed for Inheritance Tax (IHT), the shares are still eligible for relief from IHT.

We recommend that the agreement is drawn up in conjunction with Wills for your business partners and you so that trusts can be incorporated to utilise all tax allowances that are available and to fully maximise your IHT savings.

This means that...

- The business can afford to buy the shares back from the beneficiaries of the deceased partner's estate;
- The business can retain the shares without loss of control;
- The deceased's family get paid the true market value of the shares;
- There is no 'binding agreement' in place so no wastage of potential relief from IHT.

...everyone benefits

The Partnership Agreement

This is an agreement that can be put in place by the joint owners of a Partnership which means that the business can continue to trade on the death of a partner.

About us

We are experienced Will writers and estate planning consultants. Our aim is to give the best and most tax-efficient advice appropriate to your needs and those of your business and business partners. We are happy to attend your business premises to meet you and your colleagues at your convenience, to understand your specific requirements and ensure that in the event of one of the owners dying the business survives and the IHT Bill is reduced.

We are members of and regulated by the Society of Will Writers. We are also founder members of the TAS Network – a national network of independent Will writers – and are, therefore, able to provide services to national companies as well as individual private clients.

The next step

Your business partners and you have set up your business in order to make money for yourselves and your families. In an uncertain world we can help give you peace of mind from the knowledge that your business partners and family members will be protected in a tax-efficient manner. Contact us to ensure that in the event of death your business partners and your respective families get the maximum benefit and the business continues to thrive. *Why unnecessarily waste the opportunity?*

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