

## **PLAN FOR YOUR SUCCESS**

Businesses with multiple owners whether in a partnership, company or unit trust should have a succession plan to take into account life's vagrancies such as death, total and permanent disability, retirement, sale of interest and expulsion from the business.

Many businesses fail to have a "full and frank discussion" during their "courtship" and usually think that the "honeymoon period" will last forever. But like so many relationships, businesses also end up in "divorce".

Without a properly structured succession plan including appropriate business proprietors agreements which are tailored to suit your particular business, you could spend much time, money and angst sorting out your "divorce", which may not be satisfactory or, as in many cases, put undue pressure on the business so that it ultimately fails leaving both the departing and continuing business owners with a disastrous result.

Things for you to consider in making a business succession plan are as follows:

1. Is being an owner of the business conditional upon you being an employee of the business?
2. What are the trigger events, death, total and permanent disability, retirement, sale of interest or expulsion from the business?
3. What mechanisms do you wish to use? A right of first refusal, a right of last refusal, put and call option or sale to an open marketplace or sale of the whole business?
4. Do you want a "lock in" period of time so that the business is not disrupted by some early exiting by a business owner unexpectedly?
5. How long a notice period does a business owner require to give for retirement or sale of its interest?
6. How will you finance the payments? By insurance if death, or total and permanent disability, by vendor terms, by external borrowings, or by introduction of a new business owner?
7. How will the agreements work in real life?
8. How do we value the business? What business valuation methodology do we adopt?
9. What security does the vendor have in relation to payment of its interest from the business if it is paid over time?
10. What are the tax ramifications should a restraint of trade be placed on the existing business owner?

# Legal Fact Sheet

All businesses with multiple owners should have these discussions during the "courtship" and a succession plan be put into place with appropriate proprietors agreements. This may take some time to develop in conjunction with your accounting, legal, financial and other business advisors.

Once developed it should be reviewed annually in order to provide certainty for the business owner.

Adrian Riccioni, an Accredited Business Specialist, has considerable expertise in business succession planning and invites you to contact him on 9739 7377 to discuss this at your earliest convenience.

*DISCLAIMER: The above information is general in nature and believed to be correct at the time of writing. All matters should be discussed fully with your solicitor before any action is taken. No responsibility will be accepted by this firm for any loss or damage suffered by anyone as a result of the information contained above.*