

Leaving your business

What plans do you have for leaving?

The economy remains challenging and many people's financial aspirations are still a long way off being attained. Thankfully, many have seen a measure of recovery although we are still a way off from the financial problems of recent years.

Every business owner should have a personal exit strategy. We sometimes refer to this as a 'starting with the end in mind' strategy. Key issues to consider could include:

- Passing on your business to your children or other family members, or a family trust
- Selling your share in the business to your co-owners or partners
- Selling your business to some or all of the workforce
- Selling the business to a third party
- Public flotation or sale to a public company
- Winding up
- Minimising your tax liability
- What you will do when you no longer own the business
- Whether the new owners will need or desire your involvement after the sale

A fall in the value of your retirement funds and the value of property may influence your decision as to when you are able to retire.

Whatever thoughts you have concerning the sale of your business, we know from our experience that careful planning and the right advice is essential.

Indeed, creating and putting into practice appropriate strategies at each stage of your business life is essential if you are to obtain the maximum reward for taking the risks inherent in being in business.

The sale of your business

If you consider your business to have a market value, or if you are looking to your business to provide you with a lump sum on sale, it is essential to start planning now how you will realise that value. This is particularly important if you envisage selling your business within the next 10 years.

Selling your business represents a major personal decision and it is essential to plan how you will maximise the net proceeds from its sale. When might you sell? Who are the prospective purchasers? What are the opportunities you have to reduce the tax due on the sale? Let us help you maximise the potential from your 'ultimate sale'.

Maximising the value of your business

Whoever buys your business will want to be clear about the underlying profitability trends - is your profitability on the increase or decrease? Up-to-date management accounts and forecasts for the next 12 months will be close to the top of the list of the information which you should be prepared to make available to prospective purchasers.

The value attributable to many businesses is driven by the historical profits and therefore a rising trend in profitability should result in an increase in the business' value.

Maximising profitability

Increasing profitability is always important but no more so than in the years leading up to the sale. So, what is the range of values for your business? Although you may think you can make an educated guess, a professional valuation gives you more solid ground. Assess your position today and then work with us to see how you can make your business more valuable. These are the sorts of questions a potential purchaser might ask:

- Are sales flat, growing only at the rate of inflation, or exceeding it?
- Is yours a service business with limited fixed assets, or are stock and equipment a large part of your company's value?
- To what extent does your business depend on the health of other industries or of the economy?
- What is the outlook for your line of business as a whole?
- Will your company's products and processes be outmoded in the near future?
- Does your company use up-to-date technology and have a well-developed research and development programme?
- How competitive is the market for your company's goods or services?
- Does your company have to contend with extensive regulation?
- Are your company's products and services diversified?
- What are your competitors doing that you should be doing, or could do better?
- How strong is the company's staff that would remain after your sale?
- How does your company 'fit' with the purchasers?

When should you sell?

You need to weigh up the factors which might influence the right time for you to sell your business.

Personal factors

There are many personal factors that are likely to influence your decision with regard to when to sell your business. You may need to think about:

- Have your life goals changed?
- When do you want to retire?
- If you are selling within the family, when will you sell and how will this transfer/sale be funded?
- Has your health begun to deteriorate?
- Do you still relish the challenges of running your business?
- Does your business have an heir apparent?
- Will your income stream meet your needs?

Business factors

External factors can also be important in timing your sale. If you can time your business sale to coincide with a period of economic growth, when buyers outnumber sellers and will pay premium prices, you will most likely secure the best price. Although the current economic climate is fairly flat there are a considerable number of companies looking to buy as well as hedge funds looking to build a portfolio of business groups. The following questions may assist in assessing the climate for selling the business:

- What is the effect of the current state of the stock market?
- To what extent is your business 'trendy' or at the leading edge?
- Is your business forecasting increases to the top and bottom lines?
- Is your business doing better than other similar businesses?
- Is your business at, or near, its full potential?
- Are there prospective purchasers?

Minimising the capital gains tax

Taxes are one of the necessary realities of the business person's life. When you finalise the sales agreement and take the proceeds from the sale of your business, you should be completing one of the last steps in a strategy aimed at maximising the net return by minimising the capital gains tax (CGT) on sale.

CGT basics

As a basic principle, CGT is charged on the difference between what you paid for an asset and what you receive when you sell it, reduced by such amount of your annual CGT exemption as has not been set against other gains. However, CGT is one of the most complex taxes we have, so there may be a number of other factors affecting the final tax payable on a disposal.

CGT reliefs may be very valuable

Entrepreneurs' relief applies to the sale of a business and can reduce the rate of tax paid from a maximum of 20% to 10%. It is essential if you want to maximise your net proceeds that you consult with us about the timing of a sale, and the CGT reliefs and exemptions which you might be entitled to claim.

Entrepreneurs' relief

This generous relief applies to sales of a whole business or part of a business. This relief does not apply to the disposal of assets. There are specific circumstances under which the relief can apply to such a disposal, but these are related to the disposal of the business in which the asset is used.

Entrepreneurs' relief is a lifetime limit of £10 million for a reduced rate of CGT. The effective tax rate remains at 10%, so the maximum tax saving is £1,000,000. As this is a lifetime limit each disposal uses up relief which would otherwise be available for subsequent disposals. The types of disposal which attract relief are:

- The sale by a sole trader of his or her business as a going concern (including incorporating it)
- The sale of chargeable assets which were used by a sole trader in his or her business, which has ceased trading within the last three years
- The disposal by a partner in a partnership of his share in the firm, or of part of his or her share, and
- The disposal of shares and securities in a company, to which further conditions apply.

Where the business disposed of is run through a company, the disposer must own at least 5% of the ordinary share capital of the company which must entitle him or her to 5% of the votes; he or she must be an officer or employee of the company, and the company must be carrying on trading activities, and to no substantial extent any other activities. This requirement about the company's activities, is the same test as previously applied under taper relief, so if your company qualified for business asset taper relief, it also qualifies under the new rules. There is also relief available on the proceeds of winding up or dissolving a former trading company, provided this is done within three years of ceasing trading activities.

EMI shares attract entrepreneurs' relief even where the owner has less than 5% of the shares in the company, and the period of time when the EMI shares were held as options counts towards the ownership period on sale, so that EMI shareholders can usually benefit from the relief as soon as they convert the options into shares, provided they are held for 12 months as options.

Holdover relief

This relief generally applies to gifts of business assets and will normally reduce the tax payable to zero. It works by treating the donor's gain as if it were attached to the asset - effectively passing on the donor's gain to be added to any gain realised later by the recipient of the gift. Holdover relief must be specifically claimed by both the donor and the recipient of the asset.

Rollover relief

This relief applies to the replacement of business assets, and is intended to allow the seller to reinvest all the proceeds of the disposal in a replacement asset, which he would not be able to do if he had to pay a tax liability. It normally operates by reducing the cost of any new asset by some or all of the gain realised on the disposal of the old asset.

EIS and similar investments

A gain on any disposal can be deferred by investing in shares under the EIS scheme. Similar relief is available to investors in shares under Seed EIS (50% maximum) and to those investing in or leading to qualifying social enterprises under SITR. This delays the tax due on the original disposal, but does not eliminate it.

However, the CGT treatment of gains on EIS shares themselves is very advantageous, and this might be an area worth considering.

Eliminate CGT altogether?

CGT may not be chargeable if you are not resident in the UK. However, you should seek advice from us before seeking to avoid CGT by leaving the UK. In particular, non-residents are chargeable to capital gains tax on gains arising on UK residential property.

No CGT is payable for businesses or other assets that pass on your death. They may be subject to inheritance tax instead, where they may qualify for generous business property relief.

Inheritance tax and your business

Lifetime transfers

For the business owner, the vital elements in the IHT regime are the reliefs on business and agricultural property of up to 100% of the value, which continue to afford exemption on the transfer of qualifying property, or a qualifying shareholding. Ask us to check whether your assets come within this exemption.

Transfers on your death

Do not overlook your business when you draw up your Will. Reliefs may mean that there is little or no IHT to pay on your death, but your Will is your route to directing the value of your business to your chosen heir(s) unless the disposition of your business interest on your death is covered by your partnership or shareholders' agreement.

Contact us if you would like further help or advice on this subject.

Here's where we can advise

- Identifying successors in the family
- Minimising the tax on gifts or sale of the business
- Identifying successors within the business
- Identifying possible purchasers
- Valuing your business
- Preparing the business for a sale
- Preparing the business for success without you
- Timing the sale
- Maximising the sale price
- Minimising the tax on a sale
- Planning your transition to your next business
- Providing succession options through your partnership or shareholders' agreement
- Providing for a smooth transfer of your business interests at your death or if you become disabled

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