



BUSINESS SUCCESSION PLANNING FOR THE FAMILY BUSINESS

Whilst we tend to focus mainly on tax issues in our newsletters, ensuring ongoing success for your business is not just about tax planning – it's important for sure, but it's not everything.

Exiting your business has been flagged by the ATO as something it is taking a closer look at right now, particularly in the small business sector (family businesses especially).

In light of the ATO's focus in this area, we thought it might be useful to have a look at some of the broader non-tax and tax issues involved in getting ready to hand over the family business.

Succession planning

Commonly referred to as **succession planning**, this is all about getting ready to hand over your business effectively.

This is an important planning process often overlooked by small businesses.

Once you have built and grown your business, you may find yourself no longer wanting to play a part in its management and/or ownership.

This may happen voluntarily (eg, when you retire or decide to sell up), or may be forced by unexpected circumstances (eg, bankruptcy or for health reasons).

To help you understand what succession planning is all about, set out below is a checklist of some of the issues that should form part of your succession plan.

It's a big topic to cover in a small space, so we are just outlining the bare bones of some of what is involved.

As always, it's best to get more detailed advice about how to develop and implement this type of plan for your business.

Identify someone to take over

Work out what skills are required to run your business and then identify someone who can do it (your successor).

If you plan to be involved in the business in some way after the hand-over, make sure you are comfortable with the succession process and are in a position to continue to be involved on terms agreeable to all parties.

TIP

Start by carefully documenting how your business is managed, noting what works and what doesn't work. Ideally, your successor should be someone who is aware of how your business works.

Identify and maintain key relationships

Ensure all the relationships that are critical to your business' success continue to exist after any type of hand-over.

Key relationships for your business may include your:

- suppliers;
- business referral sources;



- financiers;
- sources of your market intelligence;
- employees;
- external advisers (eg, your solicitors and accountants); and
- your landlord - if you have one.

Once you identify your key relationships you then consider what strategies to put in place to maintain these relationships after hand-over.

With credit tightening at present, one of your most important relationships is with your bank.

Keep this relationship on a sound footing by ensuring your business is in order:

- make sure your financial records are up to date; and
- get your budgets and cash flow forecasts prepared for the upcoming year.

Funding for life's events

It's advisable to think about funding for events in your business and your life, especially those situations that are usually unexpected. On your planning list should be events like:

- retirement;
- resignation;
- forced leaving (eg, bankruptcy);
- death;
- total and permanent disablement; and
- trauma related events.

THINK ABOUT INSURANCE

If you do not have appropriate insurance, you should be aware that you can insure against events like death, total disablement and trauma related events. Please contact us should you require a referral for an insurance provider.

Tax issues

At some stage, succession planning inevitably involves developing strategies to transfer your ownership and management of your business and this will have tax consequences.

These consequences can be complex and may involve not only Federal taxes (eg, income tax and tax on any capital gains) but also State taxes (eg, possibly some stamp duty on asset transfers).

Ultimately, any tax consequences will be directly affected by the business structure through which you operate your business.



For instance, you may need to consider the best way of transferring:

- direct ownership (eg, a sole trader);
- an interest in a partnership;
- shares in a company; and
- units in a unit trust.

Access to significant CGT reductions

Any transfer/sale of your business assets or your interest in your business may attract capital gains tax (CGT). You should be aware that there are general CGT concessions as well as CGT concessions designed especially for eligible small businesses.

You may considerably reduce any potential tax bills with a well planned combination of these concessions.

From 1 July 2007, there is a single point of access for most small businesses with an aggregated turnover of less than \$2 million to a range of small business tax concessions that meet their business needs.

The small business CGT concessions are part of this simplified single entry point and set out below is a list of the main small business CGT concessions.

It's best to get advice about how these concessions may apply in your particular circumstances because their application can be tricky.

CGT 15-year asset exemption - you may be able to choose to be exempt from CGT when you sell a business asset you have owned continuously for 15 years (if at the time you are at least 55 years old and retiring, or you are permanently incapacitated).

CGT 50% active asset reduction - you may be able to choose to reduce your capital gain by 50% on the sale of an active asset (this reduction can apply in addition to the general 50% CGT discount for assets held for twelve months or more).

CGT retirement exemption - if you are 55 years or over, you may be able to choose to be exempt from CGT on the sale of a business asset up to a lifetime limit of \$500,000. If you are under 55, this payment must be rolled over into a complying superannuation fund or an eligible retirement savings account.

CGT roll-over provisions - you may be able to choose to roll-over all or part of a capital gain from the sale of a business asset if you acquire a replacement asset or make improvements to an existing asset.

TIP

If your business doesn't satisfy the \$2 million small business threshold test, but the net value of certain of your CGT assets (and those of entities associated with you) is less than \$6 million, it can still access the CGT small business concessions, subject to satisfying any other eligibility criteria for these concessions.

Should you require any further information or would like contact information in this area please do not hesitate to contact Michelle Pearce, John Fara or Chris Rutter on (02) 9555 1309.

Face Accountants is a [Sydney based accounting](#) firm and [taxation advisory](#) firm. We are committed to providing personalised service and quality, expert advice. Face Accountants Newsletter is distributed to provide information of general interest to their clients and network contacts. The content of this newsletter does not constitute specific advice. Readers are encouraged to consult their tax adviser for advice on specific matters