What to do?

Making sure your business has the future you would like it to have requires planning. It cannot be treated as an event you will get around to in the future or close to retirement. It is a structured process of asking questions, making plans and executing them.

While succession may lie in the future, succession planning is a present necessity.

Challenges

Two primary issues face business owners

- The complexity of planning
- Balancing the family’s needs against the demands of the business

Starting the Process

Issues for initial consideration

- Compiling your goals as a business owner
- Identifying & consulting with key stakeholders
- Identifying & prioritising critical issues

Formulating a clear business strategy

- Maximise the potential of the business for growth to facilitate sale or succession
- Have a business plan which will drive value for stakeholders
- Provided a framework under which management can transition
- Ensure the business is in the best possible position for passing onto the next generation

Management Transition

Parents who do wish to pass on their business to their children are confronted with two critical questions 1. Are my children interested in succeeding the business and 2. Are they capable of running the business.

It is extremely difficult for a parent to objectively assess their child. Assistance may be required from an objective third party in assessing your children and their development needs.

The following must also be considered

- When will you retire?- fix a date and communicate to all key stakeholders
- Determine future management needs & capabilities required to take the business forward.
- Define key leadership positions you propose to fill
- Once potential candidates are identified, match the candidate & potential roles
Where weaknesses are identified, it may be necessary to recruit externally.
Have appropriate training & development programmes for management candidates.

In selecting the right successor, what is best for the business often needs to be put ahead of what is best for individuals.

The next step is to draw up selection criteria for selecting a successor.

- Do the candidates have the ability to move the business forward?
- Do they have the leadership skills, requisite determination, focus & motivation?
- How committed are they to the business?
- Do they exercise good judgement?

In determining what continuing role, if any, you may have, you need to decide on your availability for a defined transition period and ongoing mentoring and assistance.

**Ownership Transition**

For an owner, the first question is whether to transfer to the next generation or to sell and realise the value of the business. When considering ownership transfers, it is important that the successor displays a level of maturity and understanding of the responsibilities of ownership.

Issues for consideration include

- Will they have the business information, knowledge & acumen to participate meaningfully at shareholder meetings and contribute to decision making?
- Are they aware of long term consequences of decisions/actions they make take at shareholder level?
- Are they willing to share their thinking and decisions with other stakeholders in the business?
- Do they understand the family business culture, the family’s commitment to the business and ways in which they may contribute to it?

In making a decision on ownership, it is best when the existing generation consults their children, gives the access to relevant information before an overall decision, it tends to lead to the most effective outcome for the following reasons

- The successful implementation of ownership decisions often requires the involvement of those whose lives will be affected by them
- The existing generation also make incorrect assumptions about what the next generation wants for their future. Engaging with the next generation in the decision-making can lead to better informed choices.

Other issues for consideration in transferring ownership include

- Knowing the value of the value of your business
- Should I give/sell some of my interest in the business to family members or should i leave it under my will?
If I sell the business, how will my exit be funded?
How will I fund associated costs/taxes?

Legal and Tax Considerations

- Updating your will
- Considering rights that spouses and children have under succession law
- Determine whether you should have an enduring power of attorney
- Determine the availability of tax reliefs.

Governance

- Holding formal family meetings to discuss business issues
- Establish a family council that can make family based decisions

Frame a family constitution which can provide the following

- Sets out the financial benefits each family member can expect to receive from the business
- Establishes long-term goals for the family and the business
- Provides a mechanism for introducing the family members to the business and its governance structure.
- Establishes mechanisms for dealing with family members who are involved in the business, including how their performance should be evaluated and their roles determined
- Provides a dispute-resolution procedure.
- Establishes criteria for selecting leaders and leadership transition

Wealth Management

- Consider of the amount of value to be held inside or outside the business
- Asset & wealth protection structuring to minimise risks to overall family wealth
- Setting retirement goals from both financial and lifestyle perspectives
- Pension provision and general investment planning in respect of investments held personally or in the business
- Considering the range of associated issues involve in application of the family’s wealth generated through the business.

Conclusion

As stated as the outset making sure your business has the future you would like it to have requires planning. It cannot be treated as an event you will get around to in the future or close to retirement. It is a structured process of asking questions, making plans and executing them. Succession planning is a present necessity.

By kind permission of Naill Glynn, Tax Partner, Deloitte, Dublin.

Author of Planning for Family Business Succession – Pub. 2011