Landed Estates Update

DRIVING LIFELONG PROSPERITY

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Welcome to the current edition of Landed Estates Update, our publication for landowners and those advising on Landed Estates. Succession and passing the estate on to the next generation is key for many families and in this edition we look at some of the points to consider.

WHAT IS SUCCESSION?

Most estates have now diversified into successful businesses and these need to be passed on to the next generation, as well as the assets that support them. Succession is the passing of managerial control to the next generation whilst inheritance is the passing of the land, property and other assets used in the business. Whilst the two can be done at the same time, it does not have to be the case. Succession may be easier to facilitate, and if done successfully, can give confidence when it comes to passing on the assets.

WHERE TO START?

At the outset it is important to understand the thoughts and aspirations of the different members of the family. In many families succession will be viewed as a difficult topic to discuss and, as a result, assumptions can be made about what individual family members are thinking and want. Ensuring that everyone lays their cards on the table at the outset enables plans to be made that work towards achieving the goals of all family members. It may be that one person's wishes are irreconcilable with everyone else's, but knowing that at the outset is important.

Within the business it is necessary to identify the individual business roles so that decision making and responsibility can be delegated to the correct family members. At the same time the goals and values of the business need to be established so that each person can be held accountable.

In many family businesses, the family and the business become entwined and there is no visible difference between the two. In reality the operation of a family tends to be very different from a business and the two need to be separated. To help with the planning of the business succession it may be worth holding the meetings away from the kitchen table, where it is likely the normal family dynamics will dominate. Involving a facilitator, such as a trusted family adviser, to ensure that everyone has their say can also help the process.

THE HANDOVER

Succession is not an event but a process. Once an initial plan has been established the older generation will want to know that it is going to work before they relinquish control. They will want to see the next generation working in the business and demonstrating that they are committed to it before they start to withdraw from it themselves. This will not happen overnight but by following a clear plan both parties know where they are heading.

THE OLDER GENERATION

As well as having a clear plan for the younger generation it is important to plan for the older generation. The business is likely be their main source of income and has probably also provided them with a home. If they are going to withdraw from the business they will want to be sure that they continue to receive sufficient income to maintain their desired standard of living, but also ensure that larger items such as care costs can be covered. Any succession planning will need to look at whether bringing more people into the business can generate the additional income needed to support them and, if not, what needs to be done.

INHERITANCE PLANNING

A plan for passing on the assets of the business will also be needed. Some families want to pass assets on equally to the next generation with others preferring to pass the majority on to, say, the oldest child. Invariably there will be a dilemma between treating people equally and being fair to them. Splitting everything equally may leave everyone with the same monetary value but it may not be the fairest approach, particularly if some members of the family are not involved in the business.

One approach may be to pass assets to the next generation in joint ownership. This can work if everyone has the same objectives. However, over time different family members will have different priorities and this can cause issues further down the line. Whilst it can be easy to put an asset into joint names it is generally more complicated to separate it out. This approach, over two or three generations can lead to asset ownership becoming subdivided to such an extent it is effectively worthless for the owners as they have no control over what can be done with it.

Joint ownership may work well if there is a common short to medium term goal for the asset, for example, land with the possibility of planning. In this scenario everyone is working to the same end and there is a clear exit strategy, allowing everyone to benefit.

Splitting the core business assets into multiple ownerships is also unlikely to be good for the long term viability of the business as it can create tensions between the parties, or possibly require one family member to try and buy others out. In this scenario, money that could be used to grow the business is being used to put it back together instead.

Ideally, plans should be made to provide for family members who are not involved in the business in other ways. This may be by passing other assets to them or by being able to carve out non-core assets that can be left without affecting the viability of the business as a whole.

When planning for inheritance there are likely to be a number of tax and legal issues that will need to be considered and appropriate professional advice should be taken. As far as possible tax should not be the driving force behind the decisions taken, but one of a number of considerations.

The timing of the handover of assets can also be important; given their value, the temptation for many is to hold on to them until death. If they can be passed on tax efficiently as a lifetime transfer, this may be the best outcome for the business. Knowing that they own the assets is likely to give the next generation the extra confidence they need to invest in the land and buildings to take the business forward. There will always be risks from, say, debt and divorce, but protections can be built in, for example by using pre/post-nuptial agreements.

Many people do not want to discuss their Wills and future plans for their assets. However, doing so can prevent unwanted surprises and disruption further down the line.

CONCLUSION

The process of passing on both the business of the estate and the assets used within it is neither quick nor simple. The key to a successful transition is to start planning at an early stage and to ensure that everyone affected is involved in the discussions.

In all probability it will not be possible to please everyone, but by being open and upfront it will remove unwanted surprises at a later date. The plan will need to be kept under regular review so that it can be adapted if things are not working as hoped or to accommodate unforeseen changes.

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