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Wealth transfer – how, when and to who?

Wealth should be the glue that holds a family together and the means to propel it towards happiness and success. Yet all too often, we see our clients struggle with the age-old problem of managing their wealth 'properly': either for themselves, or for their kids and broader family.

In our experience, a properly planned wealth transfer or wealth protection program can be vital to a family's wellbeing, particularly when large sums or complicated family arrangements are involved.

We typically see families facing one of three situations: either they have active family members in the business and want to transfer ownership to one or more of the next generation; or they are keen to sell the business but still pass the wealth on to their children; or they want to sell to fund their retirement years.

Passing on the business

When families want to pass the business on to their children or relatives, the right structure is critical. Families with extensive business interests and many family members should consider formalising their arrangements using the following means:

- The development of a shared 'vision' and plan for the family business.
- The creation of a family council as a forum for family members to develop, communicate and direct business, investment and social decisions for the wider family. This should be supported by a family constitution, to reflect how family members should interact with each other and with the wider community.
- The establishment of a board of directors to develop policies around how best to make strategic investments, in accordance with the collective interest of the family council.
- Holding regular family meetings, retreats and forums, to deal with issues openly and effectively.
- Developing agreed, transparent succession and leadership transition plans for the business.

It's important to allow plenty of time for the development and refinement of these processes. Families putting all this together shouldn't 'go it alone' – there is good advice to be had from a small but growing number of specialist family business advisers. These experts combine international best practices in this area with knowledge gained from working with many high net worth families and families-in-business, to provide the right advice and processes for dealing with these issues.

Realising the wealth

When family business owners don't have any obvious successors to take over the business, this forces a change in focus. The objective now is to pick the right time to sell the business, use the right structure to safeguard and maximise the returns, and pass this wealth on to others – their children, or other beneficiaries.

There are a number of points to consider in this process: how to get the best value for the business and when to time the sale are two obvious considerations. An independent valuation is critical to ensure the sale price is realistic and acceptable to potential buyers.

Once the business is sold, the family business owner may be able to minimise any possibility of capital gains tax (CGT). If the business was started or acquired before 20 September 1985, it will be treated as a pre-CGT asset and will be exempt from the tax.

If started or acquired after 20 September 1985, the family business owner may be able to take advantage of the 50 per cent CGT discount and one or more of the small business CGT concessions. For example, the Small Business Retirement Exemption enables a taxpayer to claim in certain situations an exemption of up to a maximum capital gain of $500,000, providing the proceeds from the sale of business are used for retirement.

An individual can also contribute up to an extra $1.255 million into superannuation (and gain a tax benefit on the income) over and above the non-concessional contribution cap of $150,000 per annum, as long as this contribution comes from the sale of the business.

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This article is intended to provide general information only and has been prepared without taking into account any particular individual's financial situation or needs.

We recommend you take financial advice specific to your situation before making any financial decision.

Any investment portfolio developed with the proceeds should be properly balanced between cash, shares and property. A person's will – the most common way to pass on assets and wealth to others –– is a carefully thought-out document that considers a range of options. What happens to the assets and the income if the deceased's spouse remarries? How much (if any) should the children get straight away or (more commonly) should they receive discrete amounts at different times for their different needs?

The answer to these and many other questions will depend on the particular family circumstance – the challenge is getting it right. Families with healthy businesses, complex family structures and no formalised plans around this issue should be getting the right advice, right away, to make sure all these issues are dealt with before time runs out.

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