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The Personal Law Firm

BUSINESS SUCCESSION PLANNING

What is a business succession plan?

In general, a business succession plan is a legal arrangement which ensures that a business will continue to exist when defined events occur e.g. death, retirement or disability to key employees and principals of a business. It is an arrangement whereby rights are created which require parties to the plan to either buy or sell defined business interests and property of another party upon the occurrence of certain events.

Who are the parties to the plan?

Individuals or entities who are either interested or involved in the business are parties to the plan. Usually, they are key employees and principals of the business.

What are the rights created by the plan?

The rights created by the arrangement require the parties to either buy or sell defined business interests and property of another party. These interests often include company shares (if the business is a corporate entity), partnership interests and land.

What are the events defined in the plan which allow the parties to buy and sell another party's business interests?

The defined events commonly referred to in the plan are:-

- the death of any party;
- total or permanent disability (TPD) of any of the parties;
- trauma, which occurs if any of the parties contracts a major disease or condition as identified in a policy of trauma insurance; and
- retirement of a party.

How are business succession plans funded?

There are several ways in which business succession plans are funded. They include:

- self funding, which means finding the funds from one's own resources;
- insurance obtained against defined events, i.e. death, TPD and trauma;
- creating a sinking fund, which means placing funds aside now; or
- any combination of the above.

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Why have a business succession plan?

A business succession plan has several benefits, some of which include the following:

- ensures that a business continues to exist following the retirement, death, TPD and trauma of a key employee or principal of the business.
- gives the remaining parties involved in a business the peace of mind of knowing who will be involved in the business in the future.
- gives each party and his/her family the security of knowing that they will have the financial means to support themselves when a defined event occurs.

helps the business continue smoothly and with the least disruption upon an event occurring.

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