

Business Succession Planning

Planning for the Future of your Business

On Tuesday 5 October 2010, McLean Delmo - together with McKean Park Lawyers - held a seminar about Business Succession.

The speakers were David Taylor a Business Services Partner of McLean Delmo, Ron Hudson of McLean Delmo Financial Services and Mark Flynn a Partner at McKean Park

David Taylor addressed the broad concepts of planning for the time when the founders or proprietors of a business want to retire from the business, sell it, or are forced to leave it because of ill health, incapacitation or death. Within this discussion attention was given to:

- Voluntary and involuntary exits,
- Valuation methodologies,
- Maximising the business value and proving how small changes now can make substantial changes to a business value when disposed of, and
- Taxation considerations.

Ron Hudson and Mark Flynn were particularly keen to emphasise that Business Succession Planning is an ongoing process - not an event - and that planning should start now.

The Trigger events that all business owners should consider

- Voluntary Retirement of a Director/Shareholder
- Resignation of a Director/Shareholder
- Failure of a Director/Shareholder to attend to the affairs of the business for a defined period
- Failure of a Director/Shareholder to satisfy any predetermined performance criteria
- Bankruptcy of a Director/Shareholder
- Expiry of a predetermined period of time agreed by all Directors/Shareholders
- The confirmed mental illness of a Director/Shareholder
- The unremedied default of a Director/Shareholder pursuant to the terms of the Agreement
- The conviction of a Director/Shareholder for a serious criminal offence
- The resolution of a specific majority of Shareholders to offer the Business for sale to an identified Purchaser
- The resolution of a specific majority of Shareholders to expel a Director/Shareholder

- The matrimonial separation of a Director/Shareholder from his or her spouse (whether or not legally married)
- Failure of a Director/Shareholder to attain or maintain any predetermined academic or professional qualifications
- Death of a Director/Shareholder
- Total or Permanent Disablement of a Director/Shareholder
- Diagnosis of a major disease or condition identified as a trauma event affecting a Director/Shareholder.

Ron and Mark also discussed in detail the key elements of an effective Business Succession Agreement including:

- Put and/or call options
- Effective dispute resolution procedures
- Valuation mechanisms and terms of payment.

What every business owner should do in relation to Succession Planning

- Seek advice and put a succession plan in place.
- Where two or more parties are involved in a business, an agreement should be entered into to provide certainty in relation to a trigger event.
- Arrange insurance to enable the remaining owners to fund an exiting owner in relation to a Death, Disability or Trauma event.

Should you wish to discuss your Business Succession issues, please do not hesitate to contact your Client Partner.