Selling a business? It's all in the planning

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Running a small business can be full of ups and downs with a fair share of blood, sweat and tears on the way – it's one of the attractions of being your own boss, right?

Photograph: John Hutton-Attenborough

However strong the emotional attachment there comes a time when most owner managers want to realise the fruits of their labour by selling up. Often this decision is prompted by a wish to retire.

Whether the exit strategy involves disposing of the business on the open market, selling to the existing management team or taking the family succession route it pays to plan well in advance in order to maximise the true value of the business and secure the best possible price.

This approach to pre-planning the exit route also applies to management of funds generated by the sale as John Hutton-Attenborough, Chartered Financial Planner at HFS Milbourne explained:

"Quite often a Financial Adviser is only engaged at the end of the process when the proceeds of the sale are sitting in the client's bank account. But if brought in earlier, a specialist adviser can add real value in two ways. Firstly at the pre planning stage in order to complement the sale of the business and secondly to manage the funds raised so that the client achieves his desired financial goals post-retirement.

A key priority is to extract as much capital as possible from the sale in the most tax efficient way. "Many clients, even when selling a business, worry if they will have "enough to live off" for the rest of their lives. Using cash flow modelling at the planning stages reassures clients by allowing us to demonstrate that selling the business is the right solution for them and that the price is right too!"

Retirement planning and tax planning are inextricably linked, particularly when dealing with high net worth individuals who often have complex financial affairs. There is a potential risk that without the use of a collaborative team of specialists i.e. Financial Adviser, Lawyer and Accountant, to guide the client through the legislation, valuable tax reliefs could be lost and significant tax liabilities incurred.

The main reliefs in this scenario are "Entrepreneur's Relief"(ER) and Business Property Relief (BPR). The former allows qualifying businesses/owners to potentially only pay capital gains tax at 10% rather than 20% on the first £10,000,000 following the sale of a business.

BPR is an exemption for Inheritance Tax (IHT) whereby if the client holds qualifying assets then these are exempt from IHT. Once again careful planning can enable some/all of this to be maintained if estate planning follows as one of the primary objectives post-business sale.

"The pre–planning stage needs to be undertaken at the earliest opportunity as timing could be vital in securing the various reliefs," said John. "For example, moving assets into a pension scheme can take time. Or if the proceeds from the business sale are likely to be more than £10m and there is an ability to bring other family members into the business in order to qualify for ER, this can be lengthy process which needs to be allowed for."

A further consideration is the impact of the new pension freedom rules which in effect mean that estate planning very much becomes part of retirement planning. As such a pension can be left untouched and a program of spending "taxable assets" (proceeds from the sale of the business) can be established to fund retirement needs.

If positioned correctly then the valuable allowances mentioned above can be utilised and maintained and proceeds of the sale maximised. "There have been occasions where the sale process has progressed too far and the allowances have been lost and this could impact on the future financial wellbeing of the clients," said John.

In a recent example, the ability to buy out a property by using cash reserves (both of which were not required as part of the sale) enabled the client to improve the prospect of the sale while at the same time consolidating pension arrangements and investing in a valuable asset with a solid income stream (rental income) for the time when they "retired". If the cash had been distributed to the directors in advance of the sale then there would be significant tax consequences at a time when they did not need the "cash" bearing in mind that the sale proceeds would be paid as a lump sum in due course.

A second client case illustrates how a target "income" is delivered by incorporating a number of mainstream investment arrangements to minimise the amount of tax paid, while at the same time reclaiming tax paid over the previous two tax years. In this case a husband and wife were able to enjoy more than £150,000 per annum jointly with the husband only paying tax at 20% at the most and his wife barely paying any tax at all.

"So to sum up," said John, "my advice to any business owner looking to sell up is that it's never too early to start planning ahead. Time spent up front, both preparing the business for sale and organising finances is an investment which could reap significant rewards post sale, not least a happy client enjoying a comfortable retirement."

John Hutton-Attenborough
Chartered Financial Planner at HFS Milbourne

Commentary by Haroop Ahluwalia of Mundays LLP regarding the Owens v Owens case

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Although the judgement will have to be unpicked over the coming days and weeks, essentially the Judges have been satisfied that the law has been applied correctly. Allowing someone to remain married, when their spouse clearly wants the marriage to end, seems like something out of The Handmaid's Tale. However, the fact is that the Judges' hands are tied by the law as made by Parliament.

If some good is to come from this case, it will be in pushing forward the no fault divorce debate. What is needed is a fundamental change in how couples prove their marriage has come to an end, to remove the need for there to be an "offending" party.

It's no secret that divorces are best managed when the separating couple co-operate with each other. However, the current divorce process requires one person to list examples of the spouse's unreasonable behaviour during the marriage. This is clearly not conducive to creating an environment in which the separating couple can calmly and sensibly figure out how to move on with their lives.