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Business Protection

Insuring for the unexpected

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The Chiltern Guide to Business Protection

Business protection is all about insuring for the unexpected. It's a way of protecting your business if something goes wrong. It can provide an essential safety net for all types of business.

Shareholder Protection

For many business owners, running a company is a time consuming and complex affair.
Attention is rarely paid to what might happen if a shareholder dies, or becomes seriously ill.
In the interests of financial security, business stability, and continuity - particularly for private limited companies where there may only be a small number of principal shareholders –
it is essential to provide a safety net following the loss of a shareholder:

- Shares may go to the deceased's family, which has no interest in the business and would prefer a cash sum
- The company or other shareholders will want to retain control by buying lost shares but may not have the resources to do so
- The shares may be taken over by someone who does not share the company's objectives and may be a competitor

The correct Insurance Policy allows for sufficient funds to be available in the event of the death or serious illness of a shareholder. This ensures that the company can continue to operate unhindered while the ongoing shareholder or their family receive fair compensation.
It provides documentation to enable the surviving shareholders to receive the funds free of tax.

Benefits for shareholders

In the event of a shareholder's death or serious illness, one of the most important things to your business is to ensure continuity. Shareholder Protection sets out the procedures and policies to help ensure that you retain control, and have the necessary funds to do so:

- Arrange for the most appropriate transfer of shares to surviving shareholders, or the company, at a fair commercial price
- Set up insurance policies to provide the funds to purchase the shares
- Avoid having to draw on funds set aside for other purposes
- Prevent the sale of shares to hostile parties, or competitors
- Documentation to enable all transactions to be made tax-efficiently
- Ensure the dependants of the critically ill or deceased shareholder are financially secure
- Maintain business stability and continuity
- Retain confidence of employees and customers

Information regards taxation levels and basis of reliefs are dependent on current legislation, individual circumstances are not guaranteed and may be subject to change.

Partnership Protection

The value of protecting your partnership

One of the great risks of a business partnership is that one of your colleagues may die, with his or her share of the business passing to someone else. That person may have little interest in the business or at worst may be hostile to your objectives.
Equally a partner who suffers a serious illness may want to retain the option of continuing in the business or be compensated for their exit from the business.
The safety net is a pre-arranged scheme to ensure the surviving partners have enough funds to buy out the interest in the business, or compensate the deceased's dependants.
The following range of options should be considered:-

- Appropriate life cover to fund the purchase of the deceased's interest in the business
- Advice on a suitable agreement to ensure the partnership continues and the deceased's dependants are compensated
- Arrangements for partners who retire, or who fall seriously ill and are unable to work

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Benefits to partners

In the event of the death or serious illness of one of your partners, you'll want to ensure that the business continues as smoothly as possible. Partnership Protection sets out the procedures and policies to help you retain control:

- Agreements, insurance, and trusts can be established to protect the business against the financial and practical implications of a partner's death or serious illness
- Arrangements which ensure your partnership is not automatically dissolved
- Your business interests protected against hostile parties, or disinterested inheritors
- Funds available to buy out the deceased's interest in the business and compensate any dependants
- Continuity of business prosperity
- Avoid the sale of assets to repay the deceased partner's interest in the business
- Retain confidence of employees and customers

Key Person Insurance

Key person insurance, also formerly called key man insurance, is an important form of business insurance.
There is no legal definition for "key person insurance".
In general, it can be described as an insurance policy taken out by a business to compensate that business for financial losses that would arise from the death or extended incapacity of the member of the business specified on the policy. The policy's term does not extend beyond the period of the key person's usefulness to the business.
The aim is to compensate the business for losses and facilitate business continuity.
Key person insurance does not indemnify the actual losses incurred but compensates with a fixed monetary sum as specified on the insurance policy.
An employer may take out a key person insurance policy on the life or health of any employee whose knowledge, work, or overall contribution is considered uniquely valuable to the company. The employer does this to offset the costs (such as hiring temporary help or recruiting a successor) and losses (such as a decreased ability to transact business until successors are trained) which the employer is likely to suffer in the event of the loss of a key person.

Who can be a Key Person?

A key person can be anyone directly associated with the business whose loss can cause financial strain to the business. For example, the person could be a director of the company, a partner, a key sales person, key project manager, or someone with specific skills or knowledge which is especially valuable to the company.

Taxation Aspects

Based on a set of principles laid down in 1944 by the then Chancellor of the Exchequer, Sir John Anderson, the premiums paid will be allowed as a business expense for corporation tax purposes provided that:

- The only relationship between the proposer and the life assured is that of employer and employee (except in the case of shareholding directors).
- The plan is designed to cover loss of profits only.
- The policy term should not extend beyond the period of the key person's usefulness to the business.

The employee does not hold a significant shareholding (less than 5% is probably insignificant).
If the premium is a permitted allowable expense, then the policy proceeds would normally be subject to taxation. However, there are no hard and fast rules regarding the tax treatment of premiums and benefits, and each case should be referred to the local Inspector of Taxes for approval before the policy is implemented. It is not the case that if the business decides not to apply for tax relief on the premiums, any proceeds will necessarily be tax-free. The taxation decisions rest with the Inland Revenue, and there are reported cases of where the Revenue has taxed benefits on which the premiums did not obtain tax relief. However, such policy proceeds should usually escape tax, unless the proceeds are payable in instalments. As above, each case should be referred to the local Inspector of Taxes for approval before the policy is implemented.
It is therefore very important that the effects of taxation should be considered when setting the sum assured on key person cases.
These types of plan will have no cash in value at any time, and will cease at the end of the term.
If premiums are not maintained, then cover will lapse.

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To arrange an informal, no obligation meeting at home, your workplace or at our offices in Stokenchurch, please contact us

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