

***ESTATE PLANNING
MEMORANDUM***

ESTATE PLANNING MEMORANDUM

The Estate Planning Memorandum is designed to assist you in developing a systematic approach to accumulating wealth.

We compile our approach to monitor four separate areas; those being:

- You
- The Business
- Risk
- Protected assets

As a further departure from convention, we report upon a given position measured against nominated “What if” events.

- Estate Planning
- Death, Taxes and Trusts
- Business Valuation
- Buy Sell Agreements
- Investment, Tax and Property Acquisition Structures.

An overview of Estate Planning involves assembling, organising and reviewing all of your documents and data and our observations are set out below. However, before getting into the specifics of your situation, a few brief words on Tax and Financial Planning might be a helpful way to put this initial effort into perspective.

At the outset, it is important to note that Financial Planning is simply the planned accumulation of wealth.

Wealth Accumulation, in turn, encompasses the following phases or stages of dealing with money:

1. Making It
2. Keeping It
3. Enhancing It
4. Preserving or protecting it
5. Disposing of it in the most Economical Manner.

Estate Planning Memorandum

The client, through his/her business and other economic endeavours, handles phase #1 - "Making It". The other four phases involve the use of products and people. Thus you "Keep It" by properly utilising various types of tax advantaged investments. Why?

Because it is much easier to accumulate wealth with before tax than it is on an after tax basis. If the government takes 48% of your dollars, that leaves you only 52% with which to support yourself and thereafter to enter into the wealth accumulation process.

You "Enhance It" by putting your "After Tax" dollars to work in a manner that makes sense in light of the contemporary economic situation and your personal comfort level. This is the area that is critical to the wealth accumulation process - the constant setting aside of dollars to result in the systematic growth of your net worth.

You "Preserve or Protect" your wealth accumulation efforts by utilising the appropriate risk management or contingency planning arrangements. These are merely "Fail-Safe" devices should your financial journey be either interrupted or prematurely terminated.

Here we are talking about insurance - Life, Disability, Health, Motor Vehicle, Etc an untoward happening in any of these areas could be extremely expensive and do substantial, possibly irreparable, damage to your wealth accumulation efforts. Thus, provision must be made for such contingencies.

Finally, having taken all of the appropriate wealth accumulation steps, you would not, in your final act, wish to give it back to the government. On the contrary, you would, in all likelihood, want it to go to the objects of your affection or concern, diminished as little as possible by the costs commonly associated with death. Consequently, one must enter into the estate planning arrangements appropriate to one's situation.

It's almost impossible to separate Financial Tax and Estate Planning. All are concerned not only with the accumulation of wealth, but also the orderly distribution of that wealth in accordance with the owner's wishes, maximising the heir's inheritance and minimising the tax burden.

ESTATE PLANNING

Estate Planning, as a category, usually means the orderly transmission of property, from one person to another. However, effective Estate Planning encompasses much more. It includes, among other things, taking action to protect your assets from claims or creditors including an estranged spouse whether of yours or a child of yours.

Estate Planning also means taking action to prevent having more than one half (and in some cases, much more than one-half of your wealth eroded by Capital Gains Tax and Income Tax when you die).

FINANCIAL & TAX PLANNING

Financial and tax planning is much more than picking shares and tax strategies. It involves virtually all matters which affect your economic base, and in particular, means the development of significant wealth outside of and independent of your business and, in most cases, using the value of your business to develop that independent base of wealth.

**PLANNING FOR WEALTH
PRESERVATION AND
PROTECTION**

For yourself and your family.

No matter how successful your business is, it is subject to the vicissitudes of the marketplace. Every enterprise and industry goes through cycles. Although you may be the exception, many individuals and their businesses fail because of inadequate attention to independent wealth planning. Undertaking estate and financial planning enhances the profitability of you and your business having the greater ability to survive through difficult financial times that ability to survive will provide you with many additional benefits. First, it will help maintain family and personal relationships. In the experience of many advisors, a major reason for divorce is adverse financial pressure.

Your relationship with your wife or husband definitely will change if your business falls on hard times.

Perhaps, your relationship will grow stronger because of the greater challenge the two of you will face and have to accept together. However, experienced solicitors often note a significant increase in the number of marital dissolutions when business conditions become bleak.

Second, no matter how strong your relationships are to your employees or how great their loyalty to you, adverse financial times of your business will adversely affect their relationship with you.

Your initial response may be that you don't care, but you will in the long run. You will lose some of your most valued employees and , more important, perhaps, the experience base which they represent to your business. You may also lose their commitment to the organisation whose success they have contributed to.

Third, independent wealth can help you maintain your health. Your health, and the health of other family members, may be adversely affected when your industry and business face hard times. Think back over your own lifetime and you may recall several instances where men and women who were very successful became physically, if not mentally, ill during adverse times for their business.

Business Succession, Tax and Corporate Advisory strategies focus on asking yourself some important questions. We have listed just a few, please, read them carefully. There may be many people (employees, partners or family members) whose welfare may depend upon your answers.

BUSINESS SUCCESSION

- What would happen to my family and my assets if I died unexpectedly last night?
- How can I minimise the impact of taxes, inflation and government regulation?
- If I decide to sell my business, how can I receive the most for all the years I have put in? How heavily will I be taxed? Can I avoid it?
- Would my business be able to continue after I die? Who will take my place at the helm? What can I do about it now?

Most business owners and wealthy individuals have taken some initial steps to protect and preserve the success they have created in their life times. Every successful company takes steps to manage its capital for optimum profitability and control of long term liabilities.

But if those measures are only separate pieces to solve separate problems, they do not produce a complete plan or reflect a consistent philosophy and goals.

For many executives these gaps are most apparent in the area of Compensation and Benefit Planning. For the business owner they occur in the tax effective use of corporate and personal assets. For wealthy individuals the gaps show up in strategies to sustain wealth into the next generation.

TAX AND CORPORATE ADVISORY STRATEGIES

Tax and Corporate Advisory Strategies in recent times have used more sophisticated methods to achieve income splitting including the provision of some of the essential services to a business or professional practice by a separate service entity, the ultimate beneficiaries of which are members of the proprietors family. The service entity can provide services to the practice including:

- owning and leasing offices and equipment;
- leasing of motor vehicles;
- provision of administrative services by partners;
- collection of fees for a commission'
- provision of loan funds to finance working capital;

The type of service entities which may be used to provide these services are:

- a Company
- a Family Trust
- a Unit Trust (appropriate to partnership group practices and expense sharing arrangements)

**PLANNING WILL SAVE
YOU AND YOUR FAMILY
MONEY AND HEARTACHE**

To summarise what has been said so far: Planning can significantly reduce the risks of your assets becoming subject to the claims of creditors during your lifetime and after your death. It can immunise your business from adverse times. It can provide an independent financial base even if virtually all of your assets are tied up in the operation of your business.

Planning can significantly reduce capital gain and related taxes thereby making more money available to your family and less to the tax authorities.

Your family almost certainly will save by your lifetime estate, tax and financial planning. The savings not only will come from a reduction in capital gains tax and similar wealth transfer taxes, but also a reduction in income taxes, as well as more efficient administration of your estate and the more effective operation of your business after your death. Perhaps, more important, planning may significantly reduce fights over the financial spoils at your death and promote family harmony and respect.

Probably, more fortunes have been lost in family feuds than in taxes. But make no mistake about it: without proper planning, more than half your wealth will be eroded by taxes. If your business represents a significant portion of your wealth, the burden of those taxes will fall on your company. There are very few businesses which could comfortably survive, or survive at all, when more than half of their wealth is dissipated by governmental claims.

EARLY PLANNING AND ACTIONS ARE THE KEYS

Many individuals pay for advice from professionals about estate and financial planning and then ignore it, somehow convincing themselves that they have unlimited time to take action. Others go through the planning process a single time never to be repeated, even though circumstances change. The results of either course of action are uniform and inevitable.

The significant erosion of the base of wealth which had been built over years of struggle and risk – are all lost because the individual was unwilling to undertake early planning and action even for his or her own personal benefit.

HOW TO GET STARTED WITH YOUR PLANNING

Don't wait for the perfect moment or conditions. The time to begin your planning is now. Oh, I know, you are much too busy to get started with it right now. The inventory has to be counted, the plans for the business for next year have to be made, the bank loan has to be secured, and the golf game (for business reasons, of course) has to be played.

Engaging in estate and financial planning is not easy and for most of us is not very enjoyable. Unfortunately, it also can be expensive, but there will never be a more perfect moment to start than now. Some people seem to believe the perfect moment is immediately before death. Although some planning can be taken shortly before death with some good results, nothing replaces getting started as early as possible.

If conditions for you and your business are especially good, now is a good time to start planning. If conditions for you and your company are bad, it is even more important to start planning now because, if conditions get worse, the beneficial effects of good planning may be foreclosed.

INFORMATION YOU SHOULD GATHER

The most important information you can gather to do your planning is to sort out your goals. Management Consultants have long observed that individuals and businesses which develop specific goals are much more likely to achieve the results desired.

Generally, you should decide right now if you want to immunise, to the extent legally and economically practical, aspects of your business from the business cycle and the claims of creditors, if you wish to develop a financial base of wealth independent of your company and how large that base should be and if you want to preserve your wealth for your family after your death. You should make some estimate of where you are right now with respect to those goals: What percentage of your wealth base is represented by your business; what independent base of wealth do you have; what independent base of wealth will be available (after taxes) for your family when you die; who are the individuals (other than yourself of course), causes and institutions you care about most; and who will be the most capable people to manage your business when you cannot do so. It shouldn't take you five minutes to write those things down. However, try to be as accurate as you possibly can, neither inflating or reducing the value of your property, and take an extra minute to make sure everything is listed.

ASCERTAINING YOUR GOALS

Your goals for your business, yourself and your family should be similarly specific. Perhaps, your estate and financial planning goals may have to be even more refined.

COMMON FINANCIAL AND ESTATE PLANNING GOALS

In any case, many owners of privately owned companies and trust structured businesses have similar financial and estate planning goals.

Among typical ones are:

- Maximise Benefits - maximising potential benefits for the family.
- Control - preserving control of assets, especially the family business, for the senior family members.
- Management - providing for effective management of a family business and other assets.
- Tax Savings - savings (and/or deferring) taxes including income, capital gains tax, fringe benefits tax, company tax, payroll tax and stamp duties at all government levels.
- Flexibility - maintaining maximum flexibility to react to changing family needs, economic circumstances and tax and other law changes.
- Creditor Protection - protecting family wealth from unnecessary evaporation as a result of divorces and other creditor claims.
- Opportunities for Others - providing family members with the greatest opportunity to achieve their potential, whether that is in business, teaching, philanthropy or another positive pursuit.
- Harmony - generating harmony and respect among family members and with employees and management of the family business.
- Perpetuate Ideals - perpetuating high standards for the family and the family business.
- Independent Wealth - developing a wealth base independent of the family business.
- Benefit the Community - benefiting selected charitable and other institutions within the community.

Your goals may be more or less extensive or may be different from the foregoing list. The important point is that you make a list of your goals.

**SEEKING PROFESSIONAL
ASSISTANCE**

Regardless of your level of current financial success, and regardless of the business you may be in, you almost certainly need professional assistance to effect significant and long-lasting wealth preservation and protection for your family and yourself. Tax, property and financial matters which affect the preservation and protection of wealth are so complex that few if any owners of privately owned businesses can hope to master them all.

In addition, without professional assistance, you will tend to neglect several aspects of your own planning and the implementation of goals. A strong indicator of your commitment to undertake significant planning will be seeking professional advice. Part of that advice may include the services of a personal counsellor (such as a Chartered Management Consultant) who, in appropriate circumstances, can work with you in reasoning out why you may have difficulty either in adopting a timetable, or in following the advice of other professionals you have hired and in implementing plans.

SUMMARY AND CONCLUSIONS

Just as you undertake methodical planning for your business during the course of its life, so too should you undertake careful planning for your estate and financial planning and that of your family.

You, your business, your employees, your community and, perhaps most important, your family all can benefit through your undertaking planning in a significant and responsible way. Early planning is the key. Rarely will planning be adequate if it is undertaken just before the occurrence of events such as your death or the bankruptcy of your business, which almost certainly will cause a shifting in personal relationships and the imposition of significant claims.

Your estate and financial planning should be an integral part of your overall planning for your business as well.

An accurate analogy can be made to insurance. No reasonably intelligent person does without adequate fire, theft and liability insurance. But too many people do without adequate estate and financial planning. Do not let yourself be one of them.

Sincerely

Estate Planning Memorandum
