Succession Planning for Landowners

Where to start?

In any family starting a conversation about succession planning is fraught with difficulties. It is the archetype "elephant in the room" and for that reason many farmers and land owners do not get a plan in place either early enough or at all. A recent survey shows as many as 40,000 farms have no succession plan in place.

The distinction between business succession planning and estate planning should be recognised – the first transfers the management of the business, the second the transfer of the assets.

Expectation and ambition on the part of the younger generation family members often conflict with the older generations need for security and complicate any discussions . However, open and honest communication is crucial to seeking a satisfactory resolution which will both maintain business growth and secure family relationships.

A review by the older generation

It is for the older generation to take the initiative with the advice and assistance of both their accountants and professional / legal advisors. A thorough review of the current state of the business should be undertaken, insurance for key family members put in place together with lasting powers of attorney, Wills and business structures reviewed – the better the business financial position the more likely it is to be able to meet the older and younger generation family members expectations.

Tax consideration should not be overlooked, too many farmers and landowners act without consulting advisors only to find that a simple action already taken for practical reasons such as renting a house out or moving from a farm house has significant tax implications at a later date.

Consideration of the business structure

Flexible business structures such as partnerships, contract farming and more recently joint venture for labour and machinery may mean that there are many options available as to how to trade and farm.

Partnerships' offer the most flexible trading structure for most family farms allowing shares and reward to be changed by agreement between the Partners. A new partner can be introduced without assets having to be transferred at the same time to allow a gradual approach to be taken.

Financial Security and Peace of Mind

Parents looking to solve the issue of fairness (particularly those family members who are not directly involved in the business) must consider options such as utilising the proceeds of life insurance to transfer cash or contemplating leaving land to one family member but subject to a farm business tenancy arrangement to another (but setting the parameters for the financial burden from the same).

Discretionary Trusts, could also be considered to allow someone to farm the farm during their lifetime at the same time protecting the asset for up to 120 years. When considering inheritance tax it should be borne in mind that each individual has a nil rate band of £325,000 and if on death the individual is married or in a civil partnership and leaves all their assets to their surviving issue or partner, then that spouse or partner has a nil rate band of £650,000. Care must be taken to ensure that this nil rate band is not lost by gifts on the first death. Farm land can qualify for 100% agricultural property relief (APR) but this does not mean that farm houses automatically qualify for APR. The farm house must be of a size compatible with the area of land being farmed and as such, for example, a 7 bedroom mansion on a 30 acre small holding is not going to qualify for 100% agricultural property relief. Equally farms which have diversified may find that farm shops, whilst qualifying for Business Property Relief (BPR), will not qualify for APR.

Passing on qualifying assets on death currently has a capital gains tax (CGT) advantage compared with transfer of the asset during the lifetime especially if land and buildings are to be sold in the near future. This is particularly relevant for those land owners who have land with "expectation for future development".

Pensions can invest in the business, land and buildings qualify as investments for self-investing pension plans and self-investment administered pension plans which give up to 40% relief on pension investment. These arrangements frequently involve the assets being rented back by the pension fund to the farm business.

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