Preparing your business for better times

If history teaches us anything, it's that recessions do end.

Most owner-managers are working hard to equip their businesses with the survival tools to ride out the current recession. Cash management, overhead trimming and other healthy disciplines have made a welcome return to the top of the director's agenda. These disciplines will ensure that the survivors of this recessionary race (always likely to be a marathon, not a sprint) will be leaner and better positioned to prosper as and when the recession ends.

But now may be a very good time for owner-managers to deal with other issues. Resolved now, those issues could put you in pole position to achieve your goals after the recession. One advantage of a reduction in trade might be that you have more time to spend on these issues i.e. time working <u>on</u> the business rather than working <u>in</u> the business.

Some or all of the following might merit your consideration:

- With the value of most businesses significantly reduced, now may be a very good time to minimise CGT by gifting shares to family members. This could be part of your succession planning or simply some effective tax planning.

- There are large numbers of distressed companies from whom plant and equipment, tooling, goodwill and customer lists can be purchased at knock-down rates. With care and good advice, you can avoid taking on more of the target business's staff than you intend and can avoid having to pay VAT. Many companies are seizing these opportunities presented by the current market to add significant turnover with minimal added overhead.

- As the employment market hardens, many companies are taking the opportunity to:

  - reduce pay rates;
  - introduce or improve productivity bonuses;
  - weed out poorly performing staff;
  - renegotiate important terms of employment, such as notice periods and non-compete clauses.

  If they survive the economic downturn, these companies will enjoy much greater productivity and so will be much more attractive to potential buyers as and when the market turns.

- The economic downturn may present an opportunity to re-structure the business operation:

  - inheritance tax could be reduced by moving surplus cash and/or freehold property in or out of the company, as appropriate;
  - dormant companies could be wound-up and their assets distributed to shareholders (as a capital receipt and so not subject to income tax);
  - valuable trading names could be registered as trademarks. The cost is generally less than £1,000 and registration lasts for 10 years;
  - if a sale of the business is planned and the company owns the factory or offices, the premises could be sold to the owner-manager or his pension fund. This would allow you to take advantage of current low property values and to put in place a lease on good commercial terms;
  - if the company has an under-funded defined benefit pension scheme, application to the Pensions Regulator can be made to settle or wind-up the scheme;
  - distinct saleable parts of the business could be transferred into separate subsidiary companies to make selling them easier;
  - with cash tight and company valuations low, now may be a good time to avoid paying bonuses yet retain employee commitment by implementing an employee share scheme. With rates of income tax and national insurance contributions high, the tax breaks granted by these schemes may be very attractive to your staff.

- For many businesses, there are really only a few companies who are likely ever to buy them. Make an early plan to:

  - identify potential purchasers of your business;
  - identify informal means of communication with them;
  - design your business to make it more attractive to those potential buyer(s).

  Make sure that all co-owners agree the plan for full or partial exit from the business – or have a shareholders' agreement in place to bind them to a majority decision in favour of a sale.

- Make a plan that preserves the value of the business and looks after everyone's interests in the event of the unexpected, like death of a director. Shareholders Agreements and wills should be in place. These usually ensure that:

  - the deceased's family get the cash value of his or her shares;
  - the surviving directors retain control and 100% ownership of the company;
  - the value of shares is exempt from inheritance tax;

  Sometimes, life assurance policies can be used to provide the cash funds to achieve this.

  Shareholders Agreements can also provide quick and reliable mechanisms for removing an under-performing director and getting or buying back his shares in the company.

So, however pressing the immediate effects of the economic downturn on your business, don't overlook the value of this longer-term planning. If you achieve some or all of these ideas and survive the recession, you will be stronger and in much better shape to achieve your business goals.

If these issues affect your business, or if you know of other businesses we could assist – do get in touch with our experts for a non-obligatory discussion.

Contact Our Experts

Matthew Searle
Partner and Head of Company and Commercial
Tel: 01273 403275
matthew.searle@adams-remers.co.uk

Douglas Stewart
Associate – Company and Commercial
Tel: 01273 403238
douglas.stewart@adams-remers.co.uk

About us

Adams & Remers is a full service law firm with an established reputation for its work in property, private client, litigation services, company and commercial, and employment law. We are a eight partner, 90 strong, firm based in Sussex with offices in Lewes and Brighton and have clients throughout the country.