How to Stop Your Business Going Bust if You Are BUSTED

The 11 things that you need to know in order to protect the value of your business and your personal assets

Wealthbuilders

Exit your business in style!
BUSINESS Continuation PLANNING

Wealthbuilders Ltd – Business Risk and Continuation Specialists

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There is only one universal truth in business -



HOW YOU LEAVE IT DEPENDS LARGELY ON THE PLANS YOU HAVE PUT IN PLACE.

You own a profitable and growing business which provides a lot of what you desire: Income, wealth, an identity, challenges, stimulation, satisfaction and pride.

However, your business may be failing you in an unexpected way. Because in the end, what you really need from a business is the ability to leave it – under the most favourable conditions.

You also need to be able to take some money with you to compensate you and your family for the hard work and sacrifices made over the years.

EXECUTIVE SUMMARY

What factors could adversely affect your business value or personal financial security?

1. Business ownership
2. Company debt
3. Property lease
4. Shareholder current accounts
5. Personal guarantees
6. Key people

WHAT HAPPENS WHEN A BUSINESS OWNER DIES, IS DISABLED OR SUFFERS A SERIOUS HEALTH TRAUMA?

OWNERSHIP

We need to consider the ongoing ownership of the business in the event of the death, total permanent disability or serious condition of any owner

Sole Trader

The business will either be:

a. Retained by the estate

b. Sold to one or more family members

c. Sold to one or more staff members

d. Sold to others

e. Closed down

In each of these situations, the real likelihood is a shrinkage of value in the family's affairs.

Partnership

The business interest will either be:

a. Retained by the estate in partnership

b. Sold to the partner/s

c. Purchased by the estate from the partner/s

d. Sold to others

In the absence of an agreement to the contrary, the partnership is legally dissolved on the death of a partner.

If the business is to be sold to a partner,

What will the sale price be?

When will the transaction take place?

What about Loan Accounts?

What about Personal Guarantees?

Where will she/he get the cash?

Once you have determined the ideal solution, the two vital components are:

A**: A legally-binding Agreement**
B: A guaranteed source of cash

Private Company

The shares will either be:

a. Retained by the estate

b. Sold to the other shareholder/s

c. Purchased by the estate from the other shareholder/s

d. Sold to outsiders

Whilst each is an option, the most likely is the sale to the other shareholder/s

If the business interest is to be sold to the other shareholder/s

What will the sale price be?

When will the transaction take place?

What about Loan Accounts?

What about Personal Guarantees?

Where will she/he/they get the cash?

Once you have determined the ideal solution, the two vital components are:

A: A legally-binding Agreement
B: A guaranteed source of cash



IF YOUR BUSINESS PARTNER DIES, DO YOU WANT TO BE IN BUSINESS WITH YOUR DECEASED PARTNER'S WIDOW'S NEW BOYFRIEND'S ACCOUNTANT AND LAWYER?



IF YOU DIE, WILL YOUR FAMILY WANT TO REMAIN IN BUSINESS WITH YOUR SURVIVING SHAREHOLDER(S) OR WOULD THEY RATHER HAVE THE CASH?

Business risks to co-owners/shareholders after a death or serious disablement

Surviving Majority Shareholders

- ❒ Must reckon with the deceased's heirs and their financial and legal advisors
- ❒ The heirs will probably want income in the form of dividends and a conservative growth policy for the company
- ❒ The other shareholders will probably want to follow their existing development programme and draw a salary
- ❒ The heirs may harass and frustrate the company
- ❒ Unpleasantness and bickering are likely results

Surviving Minority shareholders

- ❒ The controlling interest passes to new majority shareholders
- ❒ Though the survivors must carry on the business
- ❒ They are outvoted by untried interests
- ❒ Jeopardising their very jobs and incomes

A surviving Equal shareholder

- ❒ Also faces a conflict of interest as to dividends and policy
- ❒ Leading to deadlock with the heirs
- ❒ And often eventual liquidation

On the other hand the heirs probably face problems also

- ❒ Drastically reduced income due to the death of the breadwinner
- ❒ A risky investment in a business (relatively speaking, as investments go.)
- ❒ An inherited interest that they may not want
- ❒ Inexperience in the business

Their expectations from the business are probably different from those of the remaining shareholders

- ❒ Dividends vs salary increase
- ❒ Dividends vs investments

A ROBUST, FUNDED BUSINESS CONTINUATION (BUY/SELL) AGREEMENT IS AN EFFECTIVE ANSWER TO THESE PROBLEMS CAUSED BY A DEATH, TERMINAL ILLNESS OR A LONG TERM DISABILITY OCCURRING TO A BUSINESS OWNER OR KEY PERSON.

A PARTNERSHIP AGREEMENT WILL NOT PROVIDE A SATISFACTORY CERTAIN AND PREDICTABLE OUTCOME

FUNDING OF SHARE TRANSFER AGREEMENT

Few businesses have sufficient liquidity to be able to purchase of the shares of a deceased or permanently disabled shareholder, and borrowing is usually a very expensive option.

By far the best solution and the one providing most certainty is the funding by life and disability insurance, held by an independent trustee to ensure efficient share transfer and to provide the most protection from predators.

DEBT

We need to consider the debts of the business in the event of the death, total permanent disability or serious critical condition of any owner.

In any situation, the existence of debt that will outlive the business owner jeopardises the ongoing viability of the business.

Each of the business's debts, both external (i.e. banks etc.) and internal, (i.e. shareholders) should be reviewed to ensure that no party is in a position to force ongoing owners to act against their best interests.

Where appropriate, additional funding should be put in place to replace debt capital with owners' equity capital, thus reducing the business's dependence on external financing.

Business Debt

Debt dependency is a major factor in the shifting of control of the business from the owners to the financiers.

Should a default situation arise, financiers have a firm hold over the business, its owners and their assets, and under the Companies Act 1993, over the officers of the business should it be an incorporated company.

The vulnerability created by debt arises from the loss of control over the business that the debt instruments or the terms of debt create.

Our aim is to give cash, control and certainty to the business owners.

Cash so the owners can regain **control** of the business from the financiers and allow themselves and their estates a degree of **certainty** as to outcome.

If a business defaults on debt servicing to a financier, the terms of debt normally allow the financier the opportunity to take control of whatever assets the business may have and dispose of them to recover outstanding debt. *This is a recipe for disaster.*

In the event of a Major Tragic Event occurring to one of the key people in the business, it is a sensible risk management technique to provide sufficient cash to retire all (or at least the bulk of) business debt to retain control and provide certainty of outcome.

Question

Would your company have sufficient liquidity to pay out these loans on demand? If not, creditors will probably call on personal guarantees – thereby attacking the personal assets of any surviving owners as well as the deceased estate or the personal assets of a disabled or deceased shareholder. This often leads to impoverishment and possibly personal bankruptcy. Would the surviving guarantors have sufficient liquid assets to satisfy these demands?

Shareholder's Loans and current accounts

Credit current accounts –

This is where the company owes money to the shareholder.

Shareholders are often called upon to finance the growth and development of a company through loans of one type or another, particularly in the early years.

These loans can be in the form of a cash advance or through the partner's share of profits not wholly drawn by the shareholder - that is, retained earnings. The loans help keep the business viable and growing.

In the event of the death of a shareholder the lawyer for the estate or family trust will almost certainly demand repayment of the deceased partner's loans to the business.

These loans are repayable on demand, and if provision is not made for their repayment they can in some cases ultimately cause the business to trade insolvently, leading to possible liquidation and the demise of a business, and possible personal bankruptcy for surviving shareholders as personal guarantees are called on by the liquidators.

Question.

Will your company have sufficient liquidity to pay out these loans on demand? This is most unlikely, as the money is usually needed to fund cashflow or development. In this case, the business could be judged to be trading insolvently, and therefore be subject to liquidation. If this happens, any lenders or creditors as well as the liquidators will demand repayment of any outstanding debts, and probably call on personal guarantees – thereby attacking personal assets of any surviving owners as well as the deceased estate. This often leads to impoverishment and possibly personal bankruptcy.

Debit current account. –

This is where the shareholder owes money to the company.

This situation arises when a shareholder takes drawings from the company, or where the company loans money to the shareholder in the form of a Term Loan.

Such funds are normally repayable on demand, and unless previously otherwise agreed in a formal agreement, a repayment demand is likely to be made by the company. Most certainly, if the company is eventually wound up through the demands of other creditors, (see below) liquidators WILL demand repayment of the shareholder's current account.

Question

How would your estate repay these fund in the event of your death, or if you are disabled, would your family assets or insurance allow for repayment, or would you be facing bankruptcy?

PERSONAL GUARANTEES

Most lenders and creditors insist on personal guarantees from the directors of a business.

Most personal guarantees are “Joint and Several” guarantees. This means that all signatories may be held responsible for the whole of the debt. In the event of the death or serious disablement of a business owner who is a key person, a financier may well demand repayment of a business loan in full or in part from the estate of the deceased partner or the personal assets of any of the surviving signatories to the personal guarantees if they feel that the financial stability of the business has been compromised by the tragic event.

It is important to appreciate that a personal guarantee survives death, and is a prior charge on the deceased’s estate.

In the event of a guarantor's death, this means that the guarantor’s estate could not be distributed to the dependants until it was released from the guarantee.

This means that a lender can access the assets of your estate BEFORE your family!

If the death, disability or serious trauma of a loan guarantor results in a business loan being “called up”, the business owners may be faced with one or more of these alternatives.

1. Repay the loan from business resources – the problems here are:-
    - ❒ Does the business have sufficient liquidity?
    - ❒ Does the business have surplus assets that can be sold?
    - ❒ How long before the assets can be realised?
    - ❒ Will the assets being sold realise full value or will the business be forced to take a loss?
2. Repay the loan from personal resources – the problems here are:-
    - ❒ Are there surplus personal assets that can be sold?
    - ❒ What if the business loan or another loan is already secured against personal assets?
3. Refinance the loan – this will not be an option unless:-
    - ❒ There is another lender who is willing to lend to the business while it is under financial pressure.
    - ❒ There is adequate security available.
    - ❒ There is sufficient cashflow to finance payments.
    - ❒ The remaining business owners are prepared to re-finance the loan without the deceased or disabled shareholder’s security.
4. Find a suitable replacement guarantor – quickly!
    - ❒ What conditions will the new guarantor insist on?
    - ❒ Will the new guarantor be acceptable to the lender?
5. The alternative – Liquidation or a forced sale under less than ideal circumstances.
    - ❒ Is there a buyer?
    - ❒ Will the remaining owners be able to agree on a value? – What IS the value?
    - ❒ Will the sale price cover the loans?
    - ❒ Will the remaining owners be forced to sell personal assets?

- ❒ Will they be forced into bankruptcy?

Guarantees to cover a lease

If the lessor decides at the time of the death of a guarantor that there is some risk that the building may be unoccupied at some future time during the term of the lease, the guarantee will probably be retained until the lease expires or the landlord is able to arrange a satisfactory replacement lease.

This means that the signatories to the personal guarantee, or their estate, may be called upon at any time up to the expiration of the lease.

KEY PEOPLE

People and revenue are the lifeblood of every business and the two are inextricably linked; i.e. revenue depends on people and people depend on revenue.

If a business is to be able to continue trading following the sudden unexpected loss of personnel to a serious life risk (i.e. disablement, trauma or death), it must remain solvent and able to continue meeting its financial obligations as well as maintain shareholder value.

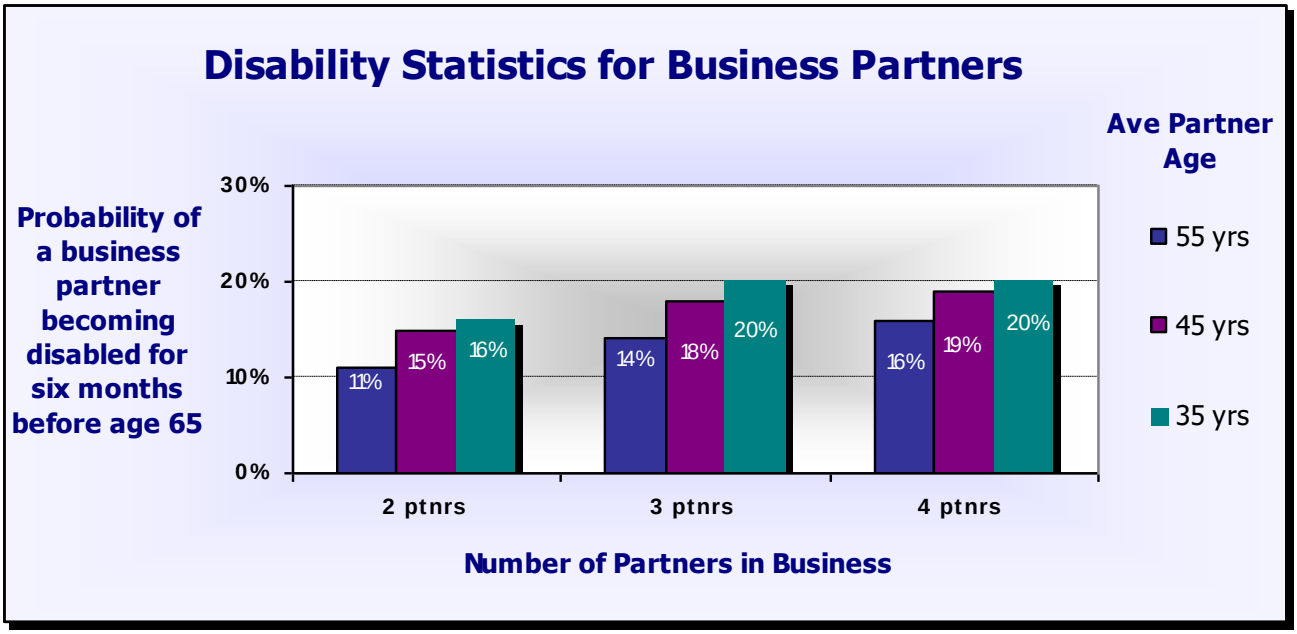
In order to achieve these objectives, it is vital that those personnel central to the business's continued viability are identified before the fact and the downstream effect of their loss understood and planned for.

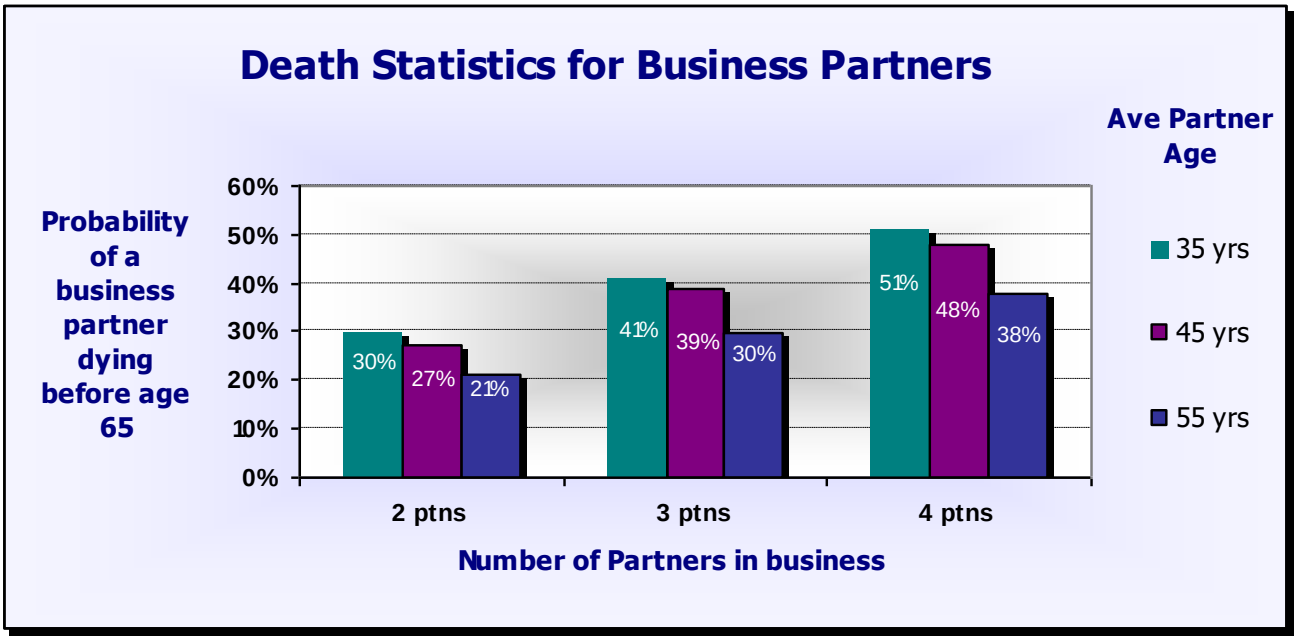
The business should have a Contingency Succession Plan that ensures that business revenue can be preserved, lost personnel replaced, debts and personal guarantees extinguished (particularly if so required by creditors and lenders) and all other contingencies provided for. These factors are all too often underestimated or overlooked.

Please note: You have a fiduciary responsibility to your shareholders and creditors to immediately address any identified issues for which funding facilities are not presently available. The first and possibly most important issue to address in maintaining your company's solvency and ability to continue trading, is to ascertain the level of revenue that is at risk and to have a strategy in place to preserve that revenue. In ascertaining this, it must be established who is responsible for the three main tasks of sales and business relationships, management and specialist functions.

All business enterprises, whether small, medium or large depend upon specific personnel who are central to their continued viability and success. These are commonly referred to as Key People.

It is common sense to protect business proprietors and their families against the loss of these key people. However, there is also a legal duty upon Company Directors and Trading Trustees that their business remains solvent and able to meet its financial obligations under all circumstances. This would include the unexpected loss of a proprietor or employee who is a key person.





Sources: Mortality: NZ Life Tables - Disability: Davies Financial and Actuarial

Acknowledgement to Katrina and Chris Louisson – RMS In-Control Software

YOU HAVE WORKED TOO HARD TO NOT ENJOY THE FRUITS OF YOUR LABOUR.

START BY PLANNING NOW!

ACTION

HAVE A FULL COMPREHENSIVE CONTINGY RISK REPORT PREPARED FOR YOUR BUSINESS TO HELP IDENTIFY THE RISKS IN YOUR BUSINESS AND TO PROVIDE SOLUTIONS TO ENABLE YOU TO PROTECT YOUR BUSINESS VALUE AND YOUR PERSONAL ESTATE.

LIQUIDATION

This is usually to be avoided if at all possible. In most cases this results on severe reduction of personal or estate assets and often personal bankruptcy with far reaching personal and business financial implications. However, in some situations this may be a viable option. Seek professional advice from a specialist if you believe that your business is heading for this situation.

Contact info@wealthbuilders.kiwi for a referral to a specialist advisor.

Talk to me about my personal experiences in this area.

PLANNING FOR THE UNFORESEEN

If you do nothing else, as a business owner you have a duty to your family and to your business to answer and to communicate to them the answers to the following questions:

In the event of your death, disability or serious trauma

Who can be given the responsibility to continue and to supervise:-

- ❒ Business operations?
- ❒ Financial decisions?
- ❒ Internal administration?
- ❒ Is there a business manual in place so that if you can't go in to work tomorrow, someone can take over your operation? -Contact info@wealthbuilders.kiwi for referral to a specialist

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How will these people be compensated for their time and, most importantly, for their commitment to continue working until the company is transferred or liquidated?

Consider key person insurance on your life to fund this need at the company level. Use the money to offer the key employees a "stay bonus," a cash bonus receivable by them if they stay and see the company through its transition.

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Should the business, at your death or permanent incapacity be:

- ❒ Sold to co-owners.
- ❒ Sold to an outside party?
- ❒ Sold to an employee(s), and if so, whom?
- ❒ Transferred to family members?
- ❒ Continued?
- ❒ Liquidated?

BUSINESS AND ASSET OWNERSHIP STRUCTURES

Every effort should be made to quarantine your personal and business assets from predators.

This means that you should not own valuable assets within your business in order to keep these assets protected from financial business risks. If your business is going through tough times, even if the company is liquidated, having your valuable assets isolated will give you enhanced financial security and may offer you alternative business arrangements.

If you decide to sell your business for any reason, it is helpful to have the assets owned separately - giving you the opportunity to retain valuable assets while divesting your operating business.

- ❒ The family home and other appreciating personal assets should be protected by a discretionary family Trust – preferably with an independent Trustee as well as any family members in order to avoid the Trust being labelled a "sham" and risking the Trust being overturned in any litigation.
- ❒ In most cases, it is sensible to have company shares owned in a separate Trust with a small shareholding held personally. The only beneficiary of this business Trust should be the family Trust.
- ❒ A small personal shareholding gives flexibility for tax and ACC purposes.
- ❒ Business related assets such as business premises and plant and machinery should be owned in a separate entity, e.g. a Trading Trust or a separate company and leased to the trading company at commercial rates.

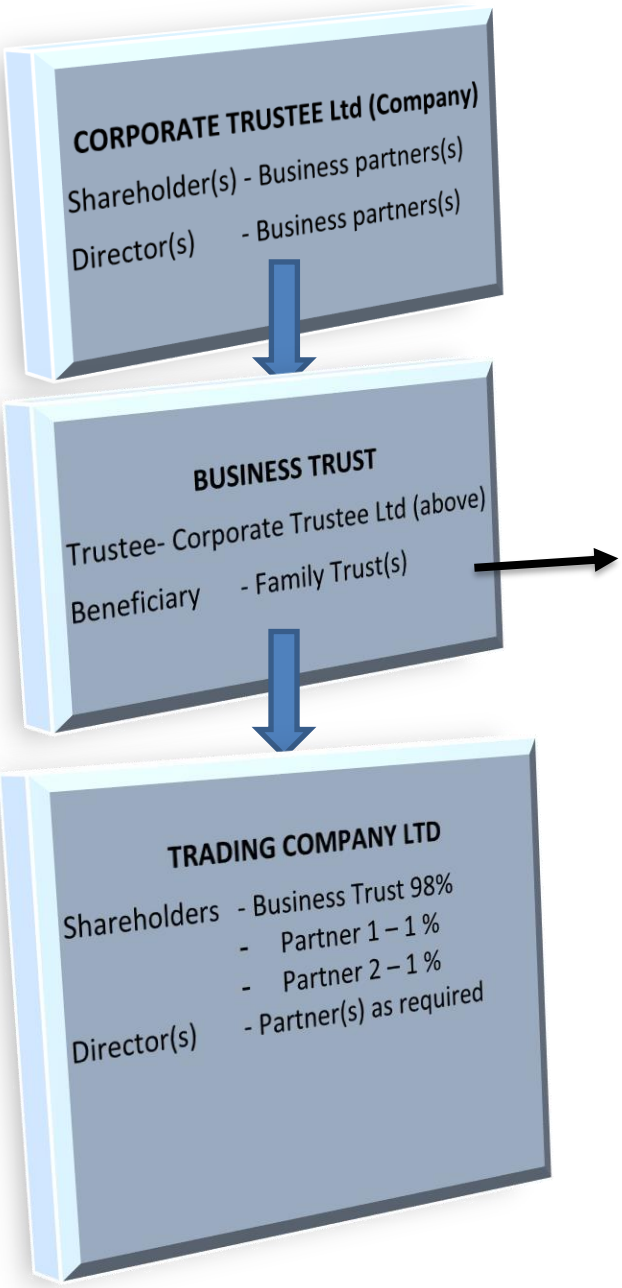
This structure will not be suitable in all situations, and is a guideline only. Please seek professional advice for your own situation.

Wealthbuilders can recommend trusted legal and accounting advisors if you need help. In our liaison group we have expert advisors in these fields.

Business ownership structure

While a Discretionary Family Trust is the ideal entity to hold the majority of your company shares, it is preferable not to have the shares residing in the same Trust which holds your lifestyle assets, i.e. family home and investment assets. This can open up opportunities for your home and other assets to be attacked by predators, therefore negating the Trust protection.

Step 1 – Business Structure



PRIVATE STRUCTURE

Family Trust owns family home, appreciating private assets, investments, insurance

TRUSTEES:

Mrs.

Mr

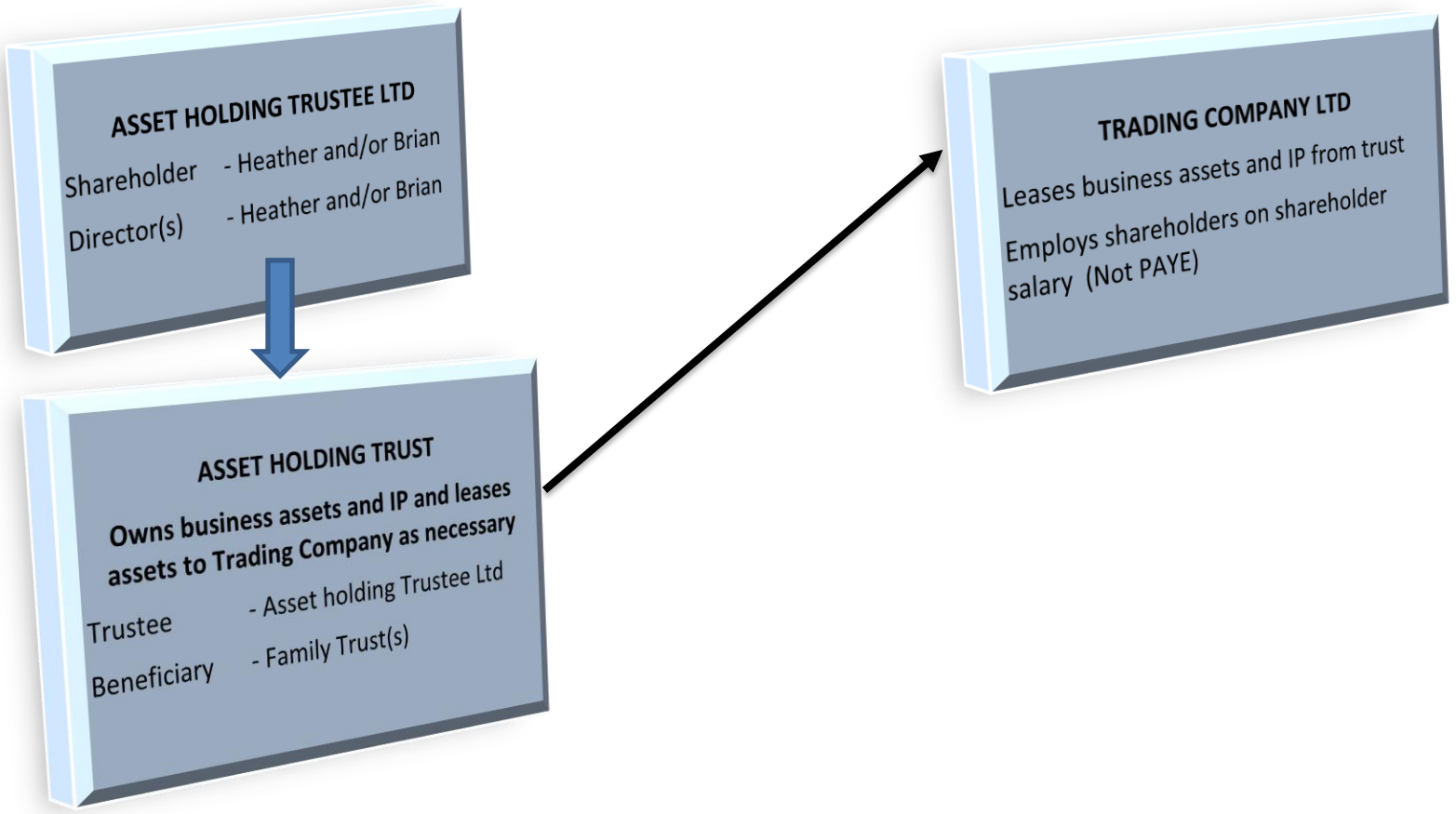
Independent (Lawyer)

BENEFICIARIES:

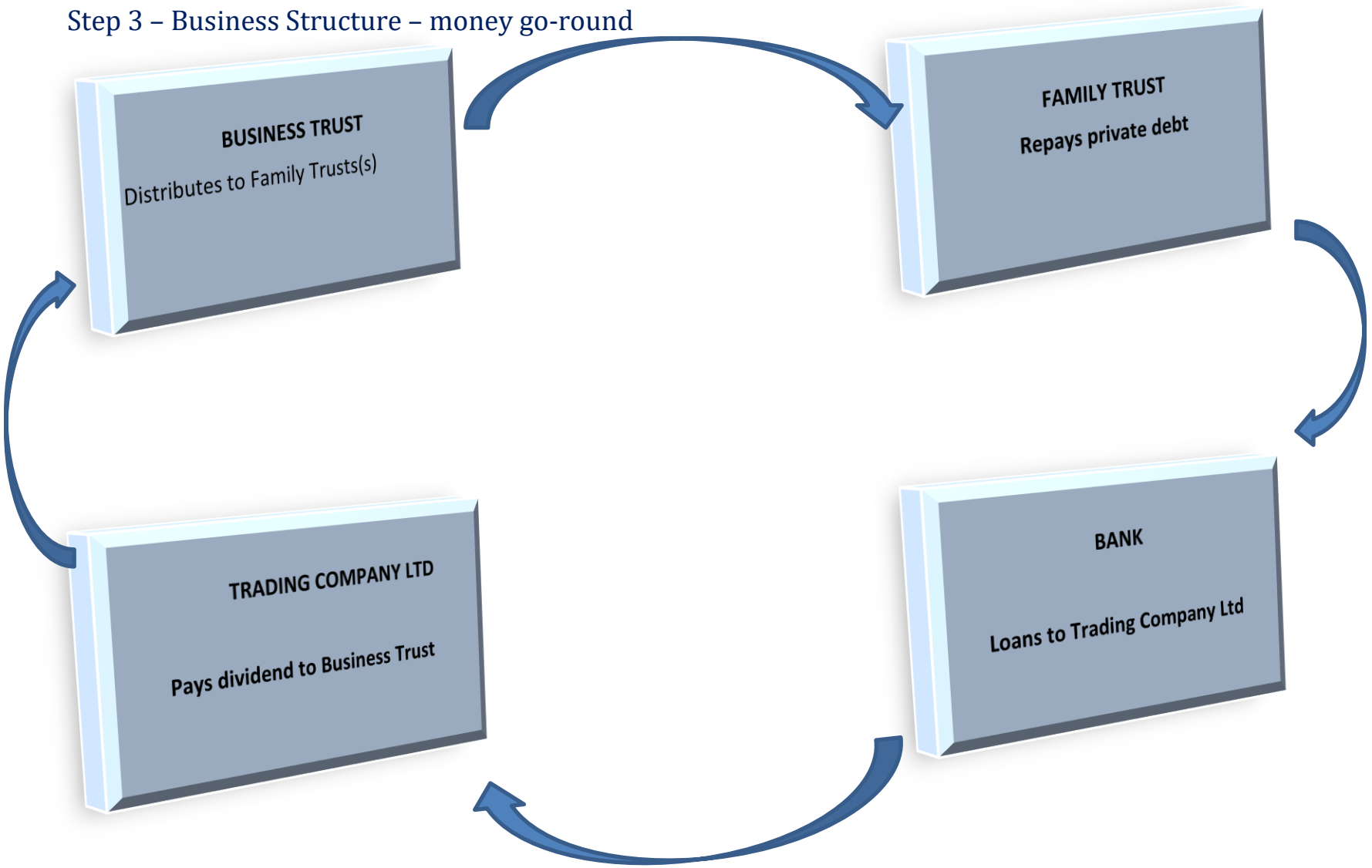
Family members

Discretionary beneficiaries

Step 2 – Business Structure



Step 3 – Business Structure – money go-round



ASSET PROTECTION

Why should we protect our assets?

"We are in business so that we can make money and retire to the beaches of the world and watch the money we have made wash over our magnificent bodies" Winston Marsh.

- ❒ Quarantine business and personal assets from predators and litigious attacks
- ❒ Limit asset loss through the use of legal identities
- ❒ Preserve your assets for your retirement years and for future generations
- ❒ Correct business and asset ownership is essential

How to exit your business in style – and take some money with you!

Your business should be a major asset. Protect and grow the value of this important money generating (we hope) asset and start planning how you are going to exit your business under the best circumstance,

Putting the right structure in place to protect you and your family's assets is most important.

Family Trusts

The aim of a family Trust is to provide future benefits for close family members or to protect family assets. It is extremely important for people in business to use family Trusts to protect their home in case their business fails.

It is normally good practice for company shares to be held largely in a family Trust (preferably NOT the same Trust which owns the family home and other large personal assets,) with a small personal shareholding to provide tax and ACC flexibility.

Through a Family Trust you can provide for your future, while at the same time giving maximum protection to your family. Trusts also provide flexibility to adapt to changing circumstances. A Family Trust allows you to plan your estate in your lifetime and can help protect your assets against possible claims under the Property (Relationships) Act, and claims against your estate.

Business assets

Valuable business assets such as buildings, other property valuable plant and machinery should not be owned by the company, but in a separate identity such as a holding company or a Trading Trust and leased to the company. This protects these assets from any attack on the company.

Business debtors (monies owing to you or your business)

PPSR (Personal Property Securities Register)

The PPSR was created as a result of the Personal Property Securities Act 1999 coming into force on 1 May 2002 and it replaced a number of existing registers including the Chattels Register, Motor Vehicle Securities Register and the Register of Company Charges.

Why use the PPSR?

Registering your security interest over a business debtor on the PPSR may give you a better chance of recovering a debt if your debtor defaults.

The Act contains rules for determining priority between security interests in the same collateral. It is therefore important to register your security interests as soon as possible. If you do not register your security interests and a debtor is adjudicated bankrupt or is placed into liquidation, secured creditors will be ahead of you when payments are made or assets distributed.

How else can the PPSR protect your business?

The PPSR can be used to assess the level of risk that a debtor may represent to you. Before entering into a contractual relationship with a debtor search the PPSR to check whether they may pose a risk.

You may:

Search a debtor to determine whether there are any existing security interests over their collateral, this may mean they have a number of existing debts.

Search a debtor to identify if the piece of collateral they are offering you as security has been used as security for another party and if so, someone else will have priority over this collateral.

Search collateral on the PPSR before buying an item. Check to see if the item is encumbered with an existing registered security. If you are purchasing a car, you may search on the registration number or VIN. Alternatively, conduct a debtor search (against the seller of the goods).

Personal debtors

If you lend money to anyone, even friends or family members, it is sound practice to register the debt on the PPSR. This means that if for some reason the debtor is adjudged bankrupt (or if a business, liquidated) your debt will have priority over other creditors.

ESTATE PLANNING

DISCRETIONARY FAMILY TRUSTS

Trusts are fantastic tools for asset separation and protection — but only when maintained correctly! In recent years, the Courts have been quite active in striking down Trusts they consider to be a sham. President of the New Zealand Trustee Association, Jonathan Cron, estimates that over 85% of Trusts do not meet compliance standards and could be ineffective when you need them.

- ❒ A Trust ensures asset protection by separating legal ownership
- ❒ It is important to seek advice and choose the right trustees
- ❒ An estimated 85% of Trusts in New Zealand non compliant and could be subject to overturning.

Here are some tips to help ensure your Trust is robust:

1. Minute books are essential

A minute book is a central record for a Trust and includes all the Trust's records – including copies of all deeds, annual accounts, investment strategies and minutes for all trustee decisions.

A good tip is to make your minutes as detailed as possible – record the circumstances around the decision being made, the power in the Trust Deed the trustees are using, the considerations and then the actual decision.

2. Remember to transfer asset ownership

In many cases, the property has not been transferred. An agreement for sale and purchase has been completed and acknowledgement of debt is in place but the house is still registered in the settlors' names.

3. Get together

It is important for trustees to have an annual meeting so everyone is well-informed and the Trust's objectives are being met. Good topics to put on the agenda are a list of the Trust's objectives and whether

these are still current, a schedule of the Trust's assets and liabilities, and ensuring the Trust's assets are well maintained and adequately insured.

4. Run a Trust bank account.

All relevant expenses should be paid from a separate Trust bank account, and topped up from personal accounts as required. e.g.

- Rates
- Insurance
- Mortgage payments
- Repairs and maintenance

In addition to a discretionary family Trust, it is important for you to have the following estate planning documents in place.

- ❒ Up to date Wills.
- ❒ Two types of Enduring Powers of Attorney.
    - An **Enduring Power of Attorney** sets out who can take care of your personal or financial matters if you cannot
    - Two types:
        - **Personal care and welfare**
            - Covers medical decisions and living arrangements such as:
            - Care and treatment required
            - What home and hospital you will go to
        - **Property**
            - Paying bills
            - Making investments
            - Buying and selling property
            - Claims for living insurance
- ❒ Memorandum of wishes in association with your family Trust

More detailed information is available on request from info@wealthbuilders.kiwi

If you're feeling overwhelmed, don't be! Our expert legal advisors can offer you advice at every stage of your Trust. They understand it's not a case of 'one size fits all' so they offer a range of options to ensure your Trust meets all legal obligations as well as your own needs.

YOUR INCOME EARNING ABILITY

The ability to earn an income is probably your most valuable personal asset.

However, more care is usually taken to protect other, less valuable assets than this extremely important ability to create wealth. Often more is spent on insurance for the Managing Director's car than is spent to protect her own unique ability to run a business and generate profits.

As an exercise, multiply your current income by the number of working years left to you, including a factor of say 3% compounding to estimate the possible loss to you if you are unable to work.

- ❒ How can you finance your hopes and dreams if you do not have an income?
- ❒ If you had a goose which each year laid a golden egg equivalent in value to your yearly income, how much would you be prepared to pay to insure the goose?
- ❒ If you think that the premiums are outside your budget – if you can't live within your income, how on earth can you expect to live without it?

INCOME CONTINUANCE OPTIONS EXPLAINED

1. Business

Key Person Income Continuance

This provides a business with an agreed value monthly payment to compensate the business for the loss of a key person due to a temporary inability to work through illness or injury. It is usually based on that person's profit contribution to the business. The payment period is normally for 12 or 24 months.

Business Expenses Cover

This type of monthly compensation is once again an agreed value benefit, but is based on actual business costs, for example, accounting, advertising, interest and rent. *Locum Cover*

This agreed value benefit pays compensation based on the estimated cost of replacing a key person.

Rural Key Person

This agreed value benefit is based on the unique needs of a farming situation, where in most cases a farm cannot continue to operate if key people are unable to work through illness or injury.

2. Personal Income Continuance

Indemnity Income Replacement

This benefit is based on 75% of your normal pre-tax income. In the event of a claim, the benefit is paid based normally on your income over the previous three years, with offsets for other income received, e.g ACC benefit payments. Financial evidence of previous three years' income is normally required at the time of a claim.

Agreed Value Income Replacement

This is also based on your previous three years' income, and is for up to 62.5% of your normal pre-tax income. At claim time the benefit paid is the amount agreed on at the time of application, with offsets for other income received, e.g. ACC weekly compensation. Financial underwriting is normally carried out at the time of the application for the insurance, and typically there is no requirement for proof of loss of earnings at claim time.

Loss of Earnings

Similar to Indemnity insurance, but is based on actual loss of earnings rather than the inability to work. Normally requires regular financial evidence as to reduced income. Normally there will be offsets for other income received as indicated in "Loss of Earnings" definition..

Mortgage Replacement

This contract provides a monthly benefit based not on your income as with the other types of personal income continuance contracts, but rather is based on your monthly mortgage repayments. These payments are NOT subject to offsets of other income payments, e.g. ACC weekly compensation.

Premium Waiver

This benefit pays the premiums for your insurance package if you are on claim for a disability. With some companies this an option, with others it is always included.

Other Benefits

Most income replacement contract have a large range of ancillary benefits, such as:-

- Rehabilitation and re-training
- Family member support
- Hospitalisation/nursing care
- Recurring claim benefit

Premium reduction options

If premiums for income continuance insurances are outside your budget, there are several ways in which a satisfactory risk protection can be arranged to fit within your budget. e.g.

- Longer wait period
- Shorter benefit period
- Less comprehensive benefits
- Split benefit levels
- No premium waiver
- Lower monthly compensation
- Reduced ACC levies

The contracts vary considerably between insurance companies.

TAKE ACTION

Take steps to ensure continuance of your business and personal income in the unfortunate event that you are unable to work.

WARNING

It is very important to obtain your insurance from a reputable insurance broker for several reasons.

1. A reputable broker will normally have access to a range of insurance companies and will be able to advise on the product most suited to your individual needs.
2. A reputable broker will conduct a comprehensive review process to identify your true needs and put together recommendations and advice based on your individual and unique situation.
3. Insurance purchased direct, from a bank teller, the Warehouse or online robs you of the support of a knowledgeable advocate at the time of a claim. Insurance companies are not always easy to deal with, particularly if you are ill or injured. You need a good broker to fight for your rights. Can you imagine a bank teller or Warehouse employee – or a robot doing this for you?
4. Many direct insurance providers, including most banks, do the bulk of their underwriting at the time of a claim, so while it may appear to be really easy to obtain the insurance with a minimum of awkward questions, you may find that you are not covered at the time of a claim for pre-existing conditions that you thought you were covered for. This means that you have paid all those

premiums under false pretences. You need to undergo a full underwriting process with a reputable company to have the confidence of knowing what you are (and not) covered for.

BACK UP YOUR BUSINESS

Why should you create a Business Procedures Manual?

It's all about your business and how you operate your business.

Suppose you were unable to get in to work tomorrow, and you were also unable to communicate with your employees and customers in any way?

A single day "off the grid" probably wouldn't matter too much because your troops would carry on – but now multiply your absence by a week or a month – six months. A serious accident or illness or even an extended trip abroad could certainly take you away for that long, and chances are by the time you returned your business would be in bad shape because nobody knows it or runs it quite like you do.

A Business Procedures Manual will provide you with a practical, step-by-step guide for your business managers on how to "back up" or absence-proof your company by setting down all the systems, processes and policies that make it work so well. If you weren't there, an acting manager, employee, temp or friend could step in, access the information that you have provided, and will have enough information to run the business smoothly for you.

How?

Begin by looking at your organisation in overview, an exercise which many business owners and managers may experience as a "light bulb" moment. Set down what the business is, what it does, who its customers and stakeholders are and how it actually provides its products and/or services. Note all key areas such as :-

- equipment and office systems
- administration
- stock purchasing policies
- human resources and OSH policies
- financial management
- insurance

A Business Procedures Manual is important to the daily operational efficiency and profitability of your company, and it is a real asset.

If you own a franchise, or if you are considering franchising your business, such a Manual is a great way of sharing with others what makes your business unique and special to you, and how it can provide a unique opportunity for others..

You can also use this review process to ensure that your business is running smoothly and efficiently, and if you need to get back to the basics again. It is an opportune time to have a complete overview of how your business is doing.

If you are contemplating a succession or sale, a Manual will make your business a more attractive proposition for the new owner because all the information they need is easy to find. In every case, a Business Procedures Manual is a very worthwhile investment. It will hugely increase the sale value of your business.

If you are selling your business, this Manual gives a seamless process for the purchaser. They may wish to make changes when they purchase the business but the first few months of ownership are vitally important and they need this vital information on hand to operate. You don't need to stay on as a consultant once you have sold your business.

Every responsible manager backs up the company's computer files – so why not do the same for your whole business?

Contributed by Deb Wilkinson - **Getting You Organised -Where's the Password?**
www.gettingyouorganised.co.nz/

COMPREHENSIVE BUSINESS CONTINGENCY RISK REPORT

This report identifies more fully the risk profile of a company, and comments on specific aspects and provides answers and recommendations to solve the issues identified. It is an initial step in the process of unlocking the hidden wealth in your business and personal situations, and the quarantining of your personal assets from business predators and risks.

What does the Contingency Risk report cover?

It identifies areas in which your business and personal financial situation may be at risk and suggests measures which you may want to take to mitigate the risks.

1. Current financial situation
2. Estate planning
    a. Wills,
    b. Family Trust,
    c. Enduring Powers of Attorney
3. Business ownership and succession
4. Debts
5. Personal guarantees
6. Lease guarantees
7. Key people
8. Review of current insurance suitability
9. Business continuation (Buy/Sell) agreement
10. ACC levy savings

How much does the report cost?

The Comprehensive Contingency Risk Report has been valued at $1,500 plus GST. However, because we strongly believe in the importance of this report for our clients, we provide the report free of charge to you.

To arrange for a report to be prepared for your business, please contact Wealthbuilders by phone or e-mail for a free initial consultation.

09 44 66 057

021 960 537

info@wealthbuilders.kiwi

TESTIMONIALS

You have demonstrated endless patience and nothing has been too much trouble for you as I have grappled with understanding anything that I wasn't completely confident about. I haven't at any time felt pressured into doing anything I haven't felt confident about either and appreciated your stepping in when you needed to. But probably, the best aspect of our relationship is that you really listen to what I am saying and this is a real bonus for me. I have really appreciated your willingness to work side by side with me until I did understand the concepts.

My trust in you is growing as I have more and more dealings with you. I can't thank you enough for the help you have given me so far."

Laraine Mills

Barry is a down to earth, friendly, warm individual who can communicate complex information in a manner that makes it readily comprehensible. He has found that I have been paying nearly double the ACC I needed to for the last 8 years.

I warmly recommend Barry to any organisation or individual looking to improve their own particular business or personal circumstances in the areas of expense reduction, business growth or succession planning."

Ken Wells, Managing director, Jigsaw Business Solutions Ltd.

"I have no hesitation in recommending Barry Vincent to anyone with the remotest concern about their financial situation, and genuinely hope that as many people as possible have such a positive opportunity to secure their future."

Daniel Thurston, Managing Director, 4i's Communications Ltd

"I highly recommend Barry Vincent. He recently helped us during a time of major transition while adding a new partner into our business. Barry is obviously a man who is expert in his field. He put together an impressive presentation and business plan

My partner and I found Barry to be a man of his word, he does what he says he will do."

Roger Crabtree Civic Auto Electricians Ltd

"I originally approached Barry through another contact. From the beginning when I sat down with him I was very impressed. No "blue skying", no pressure, just a factual account of what he can do for us. I also like the way Barry gets things done. His presentation is superb. Barry helped us with Business Succession Planning, especially the risk side. I could not recommend Barry Vincent more highly to my business peers and personal friends."

Garry Hemmingson - Nutrio Products Ltd

"I recommend that anyone wanting to add value to their business, not only in savings with ACC and Insurance, but also for guidance within this industry - to contact Barry first.
Barry has accumulated a wealth of knowledge in this industry that will offer huge benefits whether as an individual or as a company. Barry cuts through the red tape and offers guidance every step of the way. You know you're in the right place, when you've found Barry.
Barry is extremely personable and reliable."

Wayne Barnett, Company Director at Embassy Stationers

"Barry has a detailed knowledge of the Insurance business, especially in the area of Business Insurance and Succession planning. I have always found Barry to be professional and thorough."

Josh Bronkhorst - Senior Business Manager,

Barry has my utmost respect for the work that he does with his clients.
He is very much an advocate for his clients and ensures that he is looking after their needs.

Jeff Page ---Managing Director TNP Financial Services Dealer Group

“I have known Barry some 14 years and have worked more closely with him since 2008. During that time I have been incredibly impressed with his knowledge of ACC, insurance, business structures, key person issues, business succession planning and general business acumen.
Barry is a "salt of the Earth" sort who genuinely cares about the people he engages with and often undertakes additional work to ensure that his clients are happy and properly covered. His biggest strength is that of an educator in that he ensures that his clients fully understand what is being put in place for them and how they will benefit from the process. “

Owen Grauman – Managing Director – Group Plus Financial Services Ltd

TAX APPENDIX

Disability Income - Personal Indemnity Value (Loss of Earnings)

Premiums are generally considered tax deductible and claims proceeds tax assessable whether the insured person is self employed or a salaried / waged employee. Ref: Income Tax Act 2007, sections CW 34(2)(c), DA 1(1)(a); Tax Information Bulletin October 1994, pages 8-10.

Disability Income - Personal Agreed Value

The tax position is less clear. One insurer had an Inland Revenue Department (IRD) binding ruling on its agreed value policy which provided that premiums were tax deductible and claims proceeds tax assessable. On the strength of this ruling, the insurance sector issued agreed-value policies on the basis that claims proceeds were tax assessable and premiums tax deductible and maximum sums insured were set at 75% of earnings. Ref: Income Tax Act 2007, sections CW(2)(c), DA 1(1)(a).

However, IRD declined to renew the ruling when it expired (1 April 1998), following which most insurers reduced their agreed-value policy cover terms to 55% of earnings to reflect the expectation that claims proceeds would be non-assessable and premiums non-deductible. These insurers hold that agreed-value benefits are not considered assessable income and premiums therefore non-deductible under general tax principles. Ref: IRD Tax Information Bulletin October 1994, page 11. The position (July 2009) being considered by the Policy Division of IRD.

Disability Income - Business Overheads, Locum, and Key Person

Premiums are generally considered tax deductible and claims proceeds tax assessable income, against which would be offset business expenses which were the responsibility of the insured person, e.g. employee/locum salaries or personnel replacement costs, rent etc. Any surplus would be profit and subject to tax in the usual way. Ref: Income Tax Act 2007, section DA 1(1).

Term Life & TPD - Key Person Loss of Profits

Premiums are generally considered tax deductible and claims proceeds income, against which would be offset key person replacement expenses. Any surplus would be profit and subject to tax in the usual way. Ref: Income Tax Act 2007, section DA 1(1) New Zealand Master Tax Guide 2009 p481, CCH (NZ) Ltd.

Term Life & TPD - Business Debt Cancellation

<u>These premiums are no longer deductible as a business expense. Proceeds of a claim are not normally taxable</u>

Feb 1995 - Tax Information Bulletin pp19-20 ruled that business mortgage repayment insurance – premiums are tax deductible -proceeds are tax free.

2012 PU 9702 regurgitated as INSO119 but trying to overcome weaknesses of PU 9702 Inland Revenue state in INSO119, p1 that Feb 1995 TIB is the current tax position now but IRD now consider it to be incorrect

Share Purchase insurance

Premiums are not deductible – proceeds not assessable **<u>PROVIDING THE INSURANCE IS OWNED AND PREMIUMS PAID CORRECLTY</u>**.

IMPORTANT NOTE Where the share purchase insurance is owned and paid for by the company, if and when proceeds of a claim are paid to the estate of the deceased shareholder, such proceeds will be treated as income and taxed accordingly.

IMPORTANT NOTE: Please consult your Accountant for further details

This e-book is prepared for your information and guidance by Barry Vincent.

Barry Vincent is a Registered Financial Advisor -FSP 294626.

Disclosure Document is available on request



Barry Vincent

FLBA CIA

Business Continuation Planning

A division of **WEALTHBUILDERS LTD**

Acknowledgement to

Katrina and Chris Louisson – RMS In-Control Software

John Brown LLB TEP Dip Fin CLU

Deb Wilkinson – "Getting You Organised" - "Where's the Password?"

Please feel free to pass this E-book on to friends, business acquaintances or other business people whom you feel might benefit from the information.

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Exit your business in style!

BUSINESS Continuation PLANNING

FREE – Business Continuation Agreement Planning Guide CLICK HERE

Read some information from the guide:-

This guide has been assembled to assist the owners of a business with several shareholders/directors to plan the future of the business should an unexpected tragic event occur to any one or more of the shareholder/directors.

I have found that many existing partnership agreements and/or buy/sell agreements are focused mainly on the transfer of shares and are seriously deficient in many areas, and do not adequately provide for the serious consequences of overlooking such things as: –

1. business debts and loans,
2. directors' personal guarantees
3. shareholders' current accounts
4. key person responsibilities

Some of these issues, particularly personal guarantees and shareholders' current accounts may be more important to the survival of the business and the financial well-being of an affected family than the shareholding itself. There is possibly more give-and-take in the area of share transfers than with creditors and predators who will be looking for money

Because the guide covers so much more than the share buy/sell issues, I prefer to use the term of BUSINESS CONTINUATION AGREEMENT.

To read more, please CLICK HERE

To book a FREE Business Continuation consultation, please CLICK HERE