Taking care of your Business

John Lucey
Director

John Lucey looks at the need for owners and shareholders to constantly review the protection arrangements for their business.

Contemplating what might happen in the event of your death or serious illness, or that of a business partner is not a comfortable thought. It is understandable that business directors and partners are focused on the running and growth of their business and may give little or no thought to their death or serious illness. The loss of their expertise may have an immediate and devastating impact on the business but it also raises the question of succession and who may take over their share and role in the business. Therefore, it is not surprising to find many people either have inadequate or inappropriate arrangements in place to cover these eventualities.

For surviving directors or partners there are a number of particular difficulties which can arise. A new partner may not be familiar with the business and could have very different ideas on the direction of the business and how it should be run. This may lead to a loss of control as well as damage to the business arising from director agreements.

The families of the deceased can also face difficulties. There may not be any member of the family adequately qualified or with the appropriate experience to join the business. They may not have a ready market for their shares should they wish to sell them and the surviving directors may not have access to funds in order to buy them out.

This is a very unsatisfactory situation for all concerned. The business is at the loss of a leader, a family is in financial distress, and there is uncertainty regarding the future ownership of the company.

The protection solution
One solution which can meet everyone's needs in such situations is for the business to take out a life insurance and serious illness policy for each director. These policies would pay out on the death of a director or in the event of them being incapacitated by a specified serious illness.

At the same time, the company would enter into what is known as a contingent purchase agreement. In the event of the death of a director covered by such an agreement, the company would use the proceeds of the insurance policy to purchase their shares. It is then open to the company to either cancel the shares, which would have the effect of increasing the proportionate shareholding of the surviving directors. Alternatively the shares can also be held in the form of treasury shares which would allow for their later resale to an investor who the surviving directors believe would be good for the business.

However, protection should not be limited to shareholders or partners. Key person insurance allows a partnership or company to plan for the potential financial loss that it may suffer on the death or serious illness of a key employee without the attendant share purchase agreement.

These are just a few examples of the type of protection which can and should be taken out for businesses. Ensuring the survival of your business, either when you pass it on to your children, or in the event of a partner dying or becoming seriously ill, requires careful planning.

Invesco can help you put in place arrangements to suit your firm's individual circumstances which will ensure the continued success and profitability of your business.