

NEWS IN BRIEF

WILLS FOR BUSINESS OWNERS

I am often asked whether business owners must make specific bequests of their business interests in their Wills. The simple answer is “no”: shares in a private limited company can pass to nominated beneficiaries under the residuary clause of the Will.

It is natural for people to want to ensure their surviving spouse benefits from their estate.

However, it may be preferable for the spouse not to inherit business interests directly, as this may mean they would have an involvement in the day-to-day running of the company and this could cause issues for other shareholders/directors. There is a solution to this problem, which is to make a specific bequest of the business interests (shares) to a Trust.

This will offer “protection” to both the remaining shareholders and to the spouse.

By using a Trust in the Will, the surviving spouse can benefit from the shares (i.e. receive the dividend income) but as they will not own the shares, they will have no involvement with the day-to-day running of the business. If the business is trading, then Business Property Relief for Inheritance Tax may be available.

The remaining shareholders would be protected, since by utilising a Trust in a Will, the Trustees (who may be other Directors of the business) would be able to continue with the growth of the business.

A Trust also allows an element of legacy planning; it would ensure the assets can remain in trust for up to 125 years.

This could prevent a situation whereby future generations could squander and put at risk all the hard work the deceased had invested into the business during their lifetime; thus giving rise to the old saying: ‘the first generation builds the business, the second generation makes the business and the third generation squanders the business’.

If you would like a free initial consultation to discuss your situation and options open to you then contact me Chris Berry at:

Address: Berrys Solicitors
247 Church Street
Blackpool
FY1 3PE
Phone: 01253 620 022
Email: berrys.mail@btconnect.com
Website: <http://www.berrys-solicitors.co.uk>
Solicitor: Christopher Berry Principal

Berrys Solicitors is Authorised and Regulated by the Solicitors Regulation Authority
Firm No: 261147