Why Company Shareholders Need to Consider the Impact of Probate

We advise businesses to forecast and scenario plan for many reasons; to prepare for when operations could be impacted by cashflow problems; planning for expansion; even planning for a sale.

A scenario that businesses with more than one company shareholder should plan for is the death of a shareholder. It's often an overlooked aspect of succession planning because the subject of death is sensitive and individuals have their assumptions about what would happen to the shares. In this blog, we'll explain how the probate process affects company shares and the benefits of proactive planning to minimise disruption to your business.

What Happens to Shares After the Death of a Shareholder?

When a shareholder dies, the assets in their estate, including their company shares, are frozen. The assets will not be distributed until the probate process has been completed. If the right documentation is in place (Last Will & Testament, Articles of Association and Shareholders Agreement) then it is likely that this will become a non-contentious probate, and the shares will be distributed according to what was agreed before the shareholder died.

However, this scenario isn't always the case, and probate can lead to several potential complications:

• Delayed Transfer: The probate process can be lengthy, taking months or even years to finalise.

During this time, the shares remain frozen, hindering the company's ability to distribute dividends or make decisions regarding share ownership.

• Uncertain Ownership: If the deceased shareholder's will doesn't clearly specify the beneficiary of the shares, it can lead to disputes amongst heirs, further delaying ownership transfer.

• Impact on Business Operations: Uncertainty surrounding share ownership can create instability within the company, affecting decision-making, investor confidence, and potentially triggering buy-out clauses for remaining shareholders.

The Benefits of Pre-emptive Planning

Investing time to develop a clear plan for share ownership in the event of a shareholder's death can significantly minimise the impact of probate on your business. If you haven't considered this scenario yet, the shareholders should prioritise the following:

• Reviewing Shareholder Agreements: A well-drafted shareholder agreement should outline a clear process for transferring shares upon a shareholder's death. This can include buy-out options for remaining shareholders or pre-determined beneficiaries.

• Updating Wills: Shareholders should ensure their wills explicitly address the ownership and transfer of their company shares.

• Life Insurance: Consider life insurance policies held by the company or individual shareholders to provide funds for purchasing the deceased shareholder's shares, facilitating a smooth transition.

The Advantage of Working with Probate Accountants

WoodWhite Accountants is one of the very few practices in the UK licensed to provide probate services. This means that, in addition to our core accountancy services, we have a dedicated probate team that can offer comprehensive, non-contentious probate service without the need to involve a third party.

Working with a single firm for both accounting and probate ensures a cohesive understanding of your business structure and shareholder wishes, which can help to minimise the impact of probate and simplify the whole process as a result.

If you would like a confidential consultation about your business and planning for such a scenario, call WoodWhite Accountants on 0118 997 7100.