

# BOOLERS

## TECHNICAL UPDATE

### Share Protection

In the event of a business owner passing away, the continuing success of the business may be seriously impacted if the surviving shareholders do not keep control of the business.

Share Protection is designed to allow remaining shareholders to maintain ownership of the business and also to provide a fair value of the shares for the deceased's beneficiaries.

Put simply, shareholder protection works by the shareholder ensuring their life for the value of their shareholding, the policy is written under a business trust for the remaining shareholders. The shareholder, via their Will, leaves their business interest to their desired beneficiaries. Alongside this a cross option agreement is put in place to allow the remaining shareholders to buy the beneficiaries shareholdings using the proceeds of the life insurance policy. The sale / purchase of the shares can be instigated by either the surviving shareholders or the beneficiaries.

Critical illness cover can be added to the cover to provide protection in the event of a shareholder being diagnosed with a critical illness.

We are highly experienced in liaising with solicitors to ensure the various legal documents such as trusts, cross option agreements and articles of association are correctly in place to reflect your objectives.

We will also work with your accountant to ensure issues such as premium equalisation are addressed to ensure that the share protection policy is accounted for in such a way to provide tax efficiencies and avoid any inheritance tax consequences.

### Consequences of not having effective planning in place can be varied but may include could include:

- The remaining business owners may wish to purchase the shares but there may be issues with raising the capital to do so
- Should the remaining business owners not wish to or be able to acquire the shares, the beneficiaries may find there is no ready market for their sale or the price may be impacted by the death of the shareholder, especially if the shareholder were also a key person within the firm
- The beneficiaries may sell the shares to a rival business
- The beneficiaries may decide to keep the shares but may lack the ability or inclination to be involved in the business, this could lead to difficult decisions on the payment of dividends
- The beneficiaries may decide to keep the shares and wish to be involved in the business, depending on the articles of association this may or may not be possible
- The business may cease trading

### Benefits of Share Protection

- Protecting the interests of families of shareholders by ensuring they receive the full value of a shareholder's business interest on death.
- Ensuring the remaining shareholders retain control and can decide the firm's future without any outside influence.
- Simple, straight forward but effective planning
- Helping to remove the threat of cash flow problems/forced borrowing.

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These arrangements can be complex and it is important to have the appropriate tax and trust advice to ensure these structures work efficiently and they do not undermine the ability of the deceased's interest to qualify for Business Property Relief.

**If you require further information, please contact us:**

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*This technical document is for illustrative purposes only and should not be construed as advice or guidance. It is based on our understanding of current taxation, law and practice (August 2016), which is subject to change.*

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