

AW

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Succession planning

ONE OF THE MAJOR CHALLENGES FACING PRIVATELY OWNED ASIAN BUSINESSES IS THAT OF SUCCESSION. MANY ENTREPRENEURS ARE FACED WITH A DILEMMA: HAVING SPENT YEARS - PERHAPS DECADES - BUILDING UP AN ENTERPRISE, WHAT HAPPENS WHEN IT'S TIME TO HAND OVER THE REINS?

“THERE CAN certainly be tensions when handing over the reins of a company,” agrees Clive Halperin, partner at GSC Solicitors, a City of London based law firm, which has a strong focus on advising high-net-worth individuals, SMEs and entrepreneurs. “The people who have built up a company – often from very humble beginnings – are generally focused on wealth creation. They may have been cautious, and invested in physical assets, such as property, hotels, shops, etc. Their children can have a less risk-averse approach. They’re more willing to borrow to fund growth, to expand in different jurisdictions or invest in areas that seem only tangential to the core business, such as technology.”

Further complications can arise when not all of the founder’s offspring wish (or are suited) to be involved with the family business. There may be disagreements around how capital is shared: how do you fairly allocate inheritance when some parties are not contributing to maintaining (or increasing) the wealth? Throw into the mix the increasingly global

lifestyles of high-net-worth individuals – where the younger generation is often keen to invest in or even settle in other countries, so that any advice needs to take into consideration various national laws – and the scale of potential difficulties becomes apparent. “Preserving wealth for future generations and ‘ruling from the grave’ are areas that are often of great importance to our clients,” says Clive.

Professional advice is key in protecting existing wealth without stifling expansion – and it’s crucial to look at the bigger picture. Clive is proud that GSC delivers a partner-led approach that prevents clients from feeling like ‘just another number’ and allows for establishing strong, long-term relationships while taking a broad, holistic view of the issues.

This ‘trusted advisor’ role is personified by senior partner Saleem Sheikh. Having practised law for over 30 years, Saleem has worked with some clients for decades, so has advised several generations through multiple iterations of their business. He is as comfortable dealing with company founders as he is with advising ultra-high-net worth individuals where the organisation involved may

now be a professionally-run, listed enterprise that bears little resemblance to its origins. He recognises the importance of being more than just a lawyer: “Clients often use me in a ‘consigliere’ role to oversee all of their legal issues – they know they can come to me with sensitive and confidential matters, often involving their families.” Saleem’s background – he was born in Kenya to Indian parents but raised and educated in the UK, and is fluent in six languages – allows him to appreciate the cultural sensitivities and imperatives that affect his clients, and enables him to act as a bridge between different generations, since he has a keen understanding of the traditional values of older individuals, as well as the often somewhat Westernised views of their successors.

Saleem also recognises how those ‘Asian values’ can influence business policy. “Because there’s a culture of respecting elders and avoiding familial conflict, issues may not be addressed when they need to be. For instance, a family of brothers who have successfully worked on a business may not see the need for formal structures to protect and allocate future wealth. I can be frank with



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my clients, telling them ‘if you don’t do something now, you’re leaving problems for your children after you die’. I help them set up agreements that minimise the risk of disputes in the event of death, divorce or incapacitation, when emotions will be running high.” Saleem cites examples such as the bitter, high profile Radisson Blu lawsuit as illustrative of what can happen when concerns are left to fester.

The international nature of modern business means that plans must take into account differing regulatory environments. “This does create complexity regarding issues like inheritance,” confirms Saleem. “We often act as overall consultants, facilitating and coordinating

the whole process, including dealing with foreign lawyers, to ensure that family wishes are adhered to globally.” This can include making sure the appropriate wills are drawn up for each country where property or other assets are based, advising on the most tax efficient structuring (including legitimate offshore structures), ensuring new ventures are ring fenced to minimise risk or setting up share agreements so that succession is secured, all while making sure any advice is consistent across all applicable jurisdictions.

Increasingly this has led to advising and co-ordinating a family office for many clients to ensure there is an appropriate governance structure that enables them to manage the affairs of the

extended family and have a concerted and collaborative approach between the generations.

Saleem regularly travels to regions like India, Pakistan, East Africa, CIS countries and the Middle East, which enables him to maintain strong contacts with local advisors, so that clients know their work isn’t being ‘farmed out’ to faceless law firms. “Visiting these countries also keeps me alive to the on-the-ground issues, political sensitivities and potential problems,” he explains. This practical knowledge is invaluable in coordinating advice internationally – and such cohesion will only become even more vital as the next generation seeks further horizons to conquer.