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TAX PLANNING

May 2005

TEN STEPS TO TAKE WHEN PREPARING TO SELL A BUSINESS

Before shaking hands on a deal to sell the business, the owner should consider several issues.

10. What are the best case and worst case tax consequences for the seller? The two can be radically different. Between the buyer and the seller, the first one to get expert tax advice is most likely to the optimize his or her tax result. Stock swaps, sales tax, S corporation elections and employee stock ownership plans each can provide tax planning opportunities for the well-advised seller.

9. As the deal changes, be sure and confirm that the tax consequences have not changed for the worse. This is sometimes difficult because whatever caused the change will be front and center. The night before the closing is too late to update the tax consequences.

8. A home owner plants flowers before selling the house. The business owner should also groom the business for sale. This can involve the resolving festering accounting issues, disposing of obsolete inventory, or getting the motor home and condo off the balance sheet. And, yes, it often means planting a few flowers and sprucing up the offices, plant, parking lot and signs.

7. Are the brands, trade secrets and secret processes protected? Do the key employees have incentives to stay until the closing? Don't let a savvy prospective buyer grab the best assets without paying a dime.

6. Think about estate planning and charitable gifts before the sale. There are many great estate planning opportunities that disappear when the letter of intent is signed.

Sellers often make gifts to private foundations, charitable remainder trusts, public charities or universities and community foundations. In some cases, it will be much better tax-wise to make the gift before the sale.

5. Don't be in such a hurry! It has taken a long time to build this business. The sale process can take weeks or months. The owners should keep their personal and business schedules very flexible until *after* the closing actually occurs. Don't start spending the money before the closing, either. There are always surprises. Stay loose and roll with the punches.

4. Use a broker – even if the seller has already found the perfect buyer, or believes that no one else will be interested. It makes a world of difference for the seller if the broker can find a back-up buyer (or two) and kept them interested. An experienced broker can help determine a reasonable asking price for the business. When the seller and buyer are negotiating through their attorneys and the attorneys reach an impasse, the broker can get the deal back on tack.

3. Keep the business humming during the sale process. If sales or profits drop before the closing, the purchase price might drop, too. It is difficult to pay attention to the business during the sale process, but the owner must do what is necessary to maximize value at this critical time. Spending time with customers and vendors without talking about the sale can be a challenge, but the owner should stay in touch with the marketplace.

2. Be willing to walk away from the deal. Sometimes the seller grows to distrust the buyer. Or the seller is just not ready to give up control of the business, or can't imagine life without it. To be ready to put on the brakes, the seller should keep a great relationship with the key employees during the sale process. The "seller" should be prepared for stiff competition from the would-be "buyer" if the "seller" pulls the plug after the "buyer" has seen the "seller's" business from the inside.

1. Use expert advisers – before agreeing to or signing anything. The seller and buyer will negotiate many "zero sum" issues in which the outcome benefits one and disadvantages the other. A seller who negotiates in the dark will lose these points every time to a well-advised buyer. Selling a business is not something that any

owner does often. It requires special knowledge and experience. Transaction costs and anxiety can be reduced substantially if both the seller and buyer use smart, experienced, reasonable advisors and agree up front to maximize long-term trust and to minimize short-term gamesmanship.

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This article appeared originally in the San Fernando Valley Business Journal issue of May 9, 2005, page 15.
