Understanding the Steps in the Ownership Transfer Process

Every Business Owner should review of the steps in the ownership transfer process. To meet the challenges of today's dynamic M&A environments and to achieve your objectives while maintaining strict confidentiality a full understanding of each step is essential. This knowledge will provide a unique advantage for you and permit you to communicate better with buyers, buer's representatives, and your own advisors.

PHASE I- Preparation [Analyze the Business]

Valuation One of the key components of your business-sale strategy is the valuation–knowing what your company is worth is a critical diagnostic step. A number of valuation methodologies are used today, which are in compliance with the standards set forth by a variety of organizations and the Internal Revenue Service. However, a strategic buyer may be willing to pay a premium beyond the "fair market value" of your business to acquire a competitive advantage your company can provide. An experienced professional can often help you consider all the factors and to help uncover hidden intangible assets.

Market Research, Analysis and Strategy Development Serious buyers want to document, defensible evidence of your company's income-generating potential. These buyers will look at financial projections for the next five years as part of their requirements. A credible overview must include a complete analysis of trends within your industry, competitors' strengths and weaknesses, and global influences on markets relevant to your industry.

PHASE II - The Decision to Actively Market the Business [Search for the Best Buyer(s)]

Confidential Business Review Once all the data described in steps 1 and 2 are gathered, it must be carefully put together into a cogent document that positively presents your company history and persuasively demonstrates your company's earning potential. This document, the Confidential Information Document (CID), must present the facts about your company in a way that is meaningful to buyers, most of whom review sophisticated corporate documents on a regular basis. This task typically must be accomplished without disclosing price or terms.

Identification of Synergistic Candidates The ability to reach qualified buyers quickly is vital since market and industry factors can change quickly and influence the terms and price of your company. Proper use of your own and other's research capabilities will allow you to develop and maintain a database of pre-qualified buyers who are interested in a company like yours. You should quietly and carefully examine many potential buyers to find those candidates who demonstrate synergy with your company through their business mission, employees, corporate culture, and competitive strategies. You or your advisors should provide a Confidential Information Document and additional business analysis only for the final candidates. These documents give buyers a focused review of your business.

Confidential Approach to Qualified Prospects 'Confidentiality' is the critical operative word in developing a list of buyer candidates. The dissemination of your business-sale information must be handled confidentially. You must oversee this step to ensure that your competitors, vendors, banks, and employees do not become aware of your preliminary plans. Targeted companies, which may include competitors, should be required to undergo an intensive screening process. Potential buyers must sign a Confidentiality Agreement before they receive a CID. Once CID's are disseminated, the process of further qualifying prospects to arrive at the most desirable candidates requires you to carefully reveal accurate, timely information on your corporation.

Negotiations The ideal negotiating process will begin with several, fully qualified buyers. This permits an auction, which tends to optimize the sale price and terms. Still, negotiation with buyers, who are most likely expert deal-makers themselves, requires a seasoned professional, someone who understands how to focus on value as opposed to price. *(This is the one step in the process that you should always seek qualified professional assistance.)* Also, your buyer may represent a foreign concern, since many foreign operations endeavor to gain entry into United States markets through the purchase of U.S. companies. Your negotiation representative should be able to maneuver through the special issues a foreign purchase involves while securing immediate access to professional associates in the buyer's own country.

Phase III - Making the Deal [Transfer Ownership of the Business]

Deal Structuring, Letter of Intent Development Once a serious buyer is identified, the details of a final deal, price, and terms are developed. A Letter of Intent is the formal document used to set forth the major transaction terms, which are confirmed in writing to prevent misunderstandings. The Letter of Intent must address any outstanding issues concerning key employees, financing, legal matters, taxes, etc. It should also be structured to protect you from buyer delays, which can cause you to miss the other opportunities for sale of your business.

Due Diligence During this step of the M&A process, your buyer uses his professional business team to thoroughly evaluate your company. Tax experts, attorneys, accountants, and bankers will all scrutinize your company and provide an evaluation to the buyer from their own perspective. Due diligence is an intense process that can surprise many unprepared sellers. Armed with a well-prepared CID, along with full proper and defensible documentation, an experienced MSD professional will see you through due diligence successfully. The most critical questions the buyer's business team asks will have been anticipated. This ensuring that the deal will remain intact and the momentum will be maintained. [Please see, in the checklist department, information on

Due Diligence, which includes a list of the information that is normally required for review and analysis by buyers.]

Definitive Agreement It is strongly recommended that your own professional advisors –attorney, banker, and accountant – become involved during the early stages of the M&A process. Their understanding of your goals and the circumstances surrounding your M&A transaction will help speed the development of the final Definitive Agreement. Distilling all prior discussions and documentation down into a single agreement requires thoroughness and attention to details. Once the agreement is written, it is imperative that both buyer and seller carefully review it and understand their mutual obligations.

Closing and Transition to New Ownership When you have determined that your own personal goals for the sale have been met, and the buyer is satisfied with the terms and price, the Definitive Purchase Agreement is signed. This facilitates the transfer of company stock and/or assets to the buyer. Throughout the steps of the business sale process, be sure to consult your business transfer team so they can effectively guide you to ensure a smooth transfer of ownership. Issues concerning the integration of your company's corporate style with the buyer's style and integration of your employees with the buyer's employees should be fully analyzed and resolved prior to the ownership transition.

"The reason so many individuals fail to achieve their goals in life is that they never really set them in the first place." Dennis Waitley

Selling YOUR business is no different than any other new complex task.

To be successful, you must set your goals and continuously work toward it in an effective, knowledgeable manner.