

Inside This Issue

Preparing to Sell Your Company - It Is Never Too Early To Start

Success Story

The Business of Time

Tax Corner

Tips For Carving The Perfect Pumpkin

Real Estate Corner

Employment Corner

Dates to Remember

Did You Know?

Preparing To Sell Your Company - It Is Never Too Early To Start



Robert V. Hawn, Esq.

Entrepreneurs and executives of private companies look to acquisitions to provide return for themselves and their investors. Savvy business owners know that being prepared is the best way of getting the highest price for their company when the opportunity strikes.

Companies seeking to sell should start early in their acquisition preparation, preferably three to five years before they hope to sell. Owner-operator companies will need to change their focus from maximizing current income (both monetary and nonmonetary) to maximizing sale value. Most companies will need to show historical revenue growth that is sustainable over the long term. Highly compelling and strategic technology will also help add to acquisition value.

Assembling the team of advisors is a critical step. The earlier the advisors are retained, the more time they will have to get to know the company, its key players, and industry.

The target's law firm is a critical member of the team. Legal advisors provide invaluable assistance in coaching a company to pre-

pare itself for a sale. Retained early on, a legal advisor can review a company's history, structure, operations, technology, and documentation, resolve any shortfalls that might exist to the extent possible, predict any concerns an acquirer may have in reviewing the company, and prepare management to address concerns that may arise.

Other advisors include financial and tax advisors. Financial statements should be prepared in accordance with generally accepted accounting principles. Sellers should be generally familiar with the tax impacts of an acquisition. Companies initially formed as partnerships or limited liability companies may consider converting to corporations, far in advance of any sale, to take advantage of tax rules on certain types of acquisitions.

Depending on the size of the sale, brokers and investment bankers can assist in packaging a company for sale, providing valuation advice, and conducting the business negotiations.

Selling a business is an exciting time that often provides substantial value to shareholders. Good planning helps ease the process and increase the value of the sale to the seller and its investors. Structure Law Group welcomes your questions and thoughts around selling your company.

Success Story



An SLG client had an opportunity to sell their business only one year after start-up, and before they had any opportunity to do any planning to increase their value for a sale. SLG's attorneys helped the client structure an increased sales price partially contingent upon future earnings of the acquired company. This meant they would get paid not just the current value of the company but the potential value for the company in the near future as well. SLG assembled the team of advisors to properly structure the contingent payments to ensure receipt of earned amounts and minimize post closing disputes.

The Business Of Time



Tamara B. Pow, Esq.

There is nothing like starting your own business to make you realize that there is not enough time in the day. When you first start your business, there is so much to do and so little time to do it. You find yourself working Saturdays and Sundays in order to catch up and try to get ahead for the week to come. However, there are always more tasks that you did not anticipate, taking more time than you planned to spend. Eventually, this cycle begins to wear you down and you realize that you are not spending time on yourself, your family and your friends. When working harder is no longer the answer, it is time to work smarter.

First – just as you plan your work schedule, plan your breaks. Schedule in what time you will be leaving the office, what family activities you will attend, when you will exercise, and when you will socialize.

Second – treat each day like the last day of work before a

vacation. Think about how productive you are when you are trying to clean off your desk before going out of town and try to work like that all of the time to meet the schedule you set for yourself.

Third – don't get sidetracked on things that don't build value or bring in money. Ignore those slightly interesting but really useless emails from a store you once shopped in. If old friends want to connect on Facebook or meet up for lunch, schedule that for after-hours or weekends. If you let it eat into your work time, your work time will eat up all of your personal time and you will begin to resent it.

Fourth - make a list of the things you must get done and then prioritize them. Arrange for a block of time when you don't check email and don't answer the phone, and check things off your list, one at a time, starting with the highest priority item.

When running a business, time is money. Spend yours wisely.



Tax Corner

- **Small Business Jobs and Credit Act of 2010**



On September 27, 2010 President Obama signed the Small Business Jobs and Credit Act of 2010 – designed for economic growth primarily by stimulating small businesses. As a result, for the first time in 2010 and 2011, the Section 179 expense deductions are extended to real estate, up to a total cost of \$250,000 for qualified leasehold improvements, qualified restaurant property and qualified retail improvement property.

Another benefit of the Small Business Jobs and Credit Act of 2010 is that individuals subject to self-employment tax are now able to deduct health insurance costs for themselves and their family members for employment tax purposes.

- **IRS Increases Audits....Through The Mail**

On top of regular face to face audits, the IRS is now doing more than one million correspondence exams each year, as a

key part of its plan to increase audit coverage. The focus is on business expenses for small businesses, as well as Schedule C deductions for self-employed business owners. *Source: Kiplinger Tax Letter Vol. 85, NO. 15, July 23, 2010.*

- **IRS Increases Audits....of Corporations With \$50m Or Less In Assets**

The IRS is planning 22,000 line by line examinations of 2009 tax returns chosen randomly over different industries. The plan is to gather data to improve return selection criteria. *Source: Kiplinger Tax Letter Vol. 85, NO. 17, August 20, 2010.*

- **If Your Income Is Over \$1,000,000 – Beware Of California Penalties**

From 2009 forward, California requires individual taxpayers with adjusted gross income equal to or greater than \$1 million to pay 90% of the current year tax through estimated tax payments, or be subject to an underpayment penalty. These taxpayers cannot use the prior-year safe harbor. *Source: Spidell's California Taxletter, Volume 32.7, July 1, 2010.*

Tips For Carving The Perfect Pumpkin



- When searching for the perfect pumpkin, look for one with a flat bottom so that it will rest firmly on a flat surface.
- Find a pumpkin without bruises or scratches that may interfere with your carving.
- Carve the pumpkin no more than one or two days before Halloween as pumpkins tend to get moldy quickly once carved.
- Before carving, draw your design on the pumpkin with a water based marker. This allows you to wipe off your “mistakes” with a sponge before carving.
- If you decide to use a stencil, place the stencil against the pumpkin and use a thumbtack or ice pick to outline the stencil onto the pumpkin.
- Carve the large areas of the pumpkin with a sharp, straight edged knife or a serrated metal saw found in pumpkin carving kits. Dull blades can be very dangerous when carving a pumpkin and the metal saws are safer for children.
- Do not hold knives in a stabbing position.
- Use slow and steady strokes when carving your pumpkin.
- Cut the top of the pumpkin at an angle so that the top does not fall in when the pumpkin starts to shrink.
- Use an X-Acto knife for the details.
- For smaller curves and circles, you can use the tip of a potato peeler.
- Use a toothpick to reattach sections that are accidentally removed.
- After carving, cover all cut surfaces of the pumpkin with vegetable oil or petroleum jelly to increase the pumpkin’s life.
- For young children, use paint, markers or stickers to decorate pumpkins instead of carving.

Real Estate Corner



On-call Time Doesn't Count For Real Estate Pros

In order for real estate professionals to beat the passive loss rules and deduct their rental losses, over 50% of their working hours, and at least 750 hours per year, must be materially involved in real estate as a developer, broker, landlord, etc. related to real estate. The Tax Court recently held that only the time actually working counts – unfortunately, being on-call for rental units does not. However, since the taxpayer’s adjusted gross income did not exceed \$150,000 he was allowed to deduct some of his losses from actively managed real estate against his other income (\$25,000 allowance subject to phase out as AGI exceeds \$100,000, ending at \$150,000). *Moss, 135 TC No. 18. Source: Kiplinger Tax Letter Vol. 85, NO. 20, October 1, 2010.*

Employment Corner



Free Employment Seminars By The Employment Development Department

The EDD is offering seminars in San Jose covering:

- ⇒ Federal/State basic payroll taxes
November 18th and December 14th
- ⇒ Employee or Independent Contractor Tax Seminar
October 26th and December 6th
- ⇒ State Labor Law and Payroll Tax Seminar
November 2nd, November 22nd and December 16th
- ⇒ How to Manage Unemployment Insurance Costs Tax Seminar
December 10th

For more information go to http://www.edd.ca.gov/Payroll_Tax_Seminars/ or call 888-745-3886.



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Dates To Remember

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|-------------|---|
| October 31 | Halloween |
| November 2 | Election Day |
| November 11 | Veterans Day- some courts and government offices closed |
| November 25 | Thanksgiving |
| December 25 | Christmas Day |
| December 31 | New Years Eve |

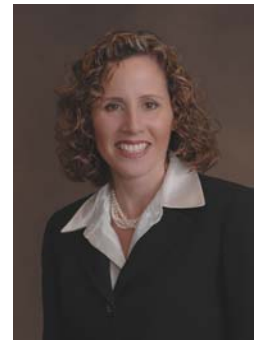


Did You Know? Halloween Fun Facts...

- In the movie "Halloween" the mask used by Michael Myers was a Captain Kirk mask painted white.
- Snickers is the most popular Halloween candy with trick-or-treaters.
- Halloween candy sales average about 2 billion dollars in the U.S.
- The setting for the movie "Halloween" is Illinois. However, the movie shows California license plates.
- Halloween is the 2nd most commercially successful holiday, after Christmas.
- Tootsie rolls were the first wrapped penny candy in America.



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*We appreciate
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