

## **SELLING YOUR BUSINESS CASHING IN YOUR NEST EGG**

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Thinking about selling your business? If you are not, you should be, at least to some extent. Most business advisors will tell you not to get into a business until you have some exit strategy. As a business owner, your business is probably your retirement nest egg, and it is never too early for you to start thinking about cashing it in. There are things you can do today to maximize the value of your company when you do sell – whenever that may be.

1. Preparing Today for the Eventual Sale of Your Business. You can increase the value of your business by obtaining exclusive rights within your industry, such as exclusive contracts with business partners, intellectual property rights in products or services, and non-compete agreements with key employees. These exclusive rights give you a competitive advantage over competing businesses. Additionally, you can increase the value of your business in the eyes of potential buyers by making it as easy as possible for someone other than you to run the business. You can do this by establishing operating and procedures manuals, adequately training key employees, and keeping accurate, updated records. Also, the more recognizable your business' name is, the more someone will be willing to pay to purchase it. Put your business' name on everything you do. Eventual buyers will pay for the goodwill you have developed over the years. Again, all of these things should be done regardless of whether or not you are contemplating selling your business in the near future.

2. Finding a Buyer. If you have decided you are ready to sell, the next logical step is to find someone who is interested in buying. While you could put an ad in the classified section of the newspaper under "Business Opportunities", you do not want the whole world to know that your business is for sale - - you only want potential buyers to know. If your customers/clients are aware that your business is for sale, they might incorrectly assume that something is wrong and stop doing business with you. If your employees find out you are selling the business, they too might incorrectly assume that something is wrong, and contemplate quitting (this again highlights the need to have your key employees sign non-compete agreements). Making public your desire to sell your business can undermine the value that you have built into the business in preparing for the sale. If you are unable to discreetly locate a buyer on your own, you should contemplate hiring a business broker. The broker's fee can be as much as 10% of the purchase price, so you might want to interview multiple brokers before making a decision. You might also consider selling your business to your employees, collectively. Before considering this option, make sure that non-compete agreements are in place with your key employees. Do not give your employees the impression that you are jumping ship. Perhaps you could have a casual conversation about your intent to eventually retire, and inquire as to

whether the employees would like to continue the traditions you have established. The sale of the business to your employees can be accomplished all at once (cashing out) or by a gradual sale of interest in the business (incentivizing), using such methods as an Employee Stock Ownership Plan (ESOP).

3. Negotiating a Deal. Once you have located a buyer, you should continually attempt to keep the negotiation process moving forward. This should be done by signing a confidentiality agreement, having a valuation of your business prepared, cooperating with the buyer's "due diligence" (a thorough inquiry into your records, facilities, employees, etc. – emphasizing the importance of a confidentiality agreement), and performing your own due diligence (investigating the buyer's reputation, credit, experience, and intent).

4. Structuring the Deal. Generally, there are two ways to structure the deal: as an asset sale or as an entity sale. Sellers generally prefer an entity sale, because the buyer not only purchases the assets of the business, but also its liabilities. Moreover, for small businesses, an entity sale is generally less complicated than an asset sale. With an asset sale, the buyer must pay sales tax on the sale of personal property assets such as equipment, whereas with an entity sale, generally there are no personal property sales tax implications. Tax is due on the sale of real property, regardless of whether the deal is an asset sale or an entity sale, and is generally paid by the seller. A tax advisor can help you decide which structure is best for you. Be aware that the majority of sales, of small businesses, whether an asset sale or an entity sale, involve some degree of seller financing. This means that, if the buyer is unable/unwilling to secure third-party (bank) financing, the seller will likely make an offer that includes a down payment and payments over time.

With these principals in mind, you can maximize the amount that you get out of your nest egg and be prepared for the deal, whether it happens tomorrow or in 40 years.