volume 19, number 3

financial business edge

ROBIN S. WEINGAST AND ASSOCIATES, INC.

ROBIN S. WEINGAST AND ASSOCIATES, INC.

GARDEN CITY CENTER
100 QUENTIN ROOSEVELT BLVD.
SUITE 507
GARDEN CITY, NY 11530
P: 516.794.1450
F: 516.794.8146
EMAIL: RSW@RSWTPA.COM
WEBSITE: WWW.RSWTPA.COM

in this issue:

Business Succession Planning for Sole Proprietors

If you're a sole proprietor, you probably appreciate the simplicity of owning your business this way. The administrative costs are relatively low, your profits are your own, and you have no obligations to any partners. While enjoying this independence, it's important to create a strategic plan for your business to be used during times of transition—a business succession plan.

While some events are in your control, such as when you will retire, others are less predictable, mainly disability or death. With some forethought and the help of your financial, legal, and tax professionals, you can develop an effective exit strategy and a sound plan for continuing, selling, or transferring your business.

To Be Continued . . .

When sole proprietors die, their business entities cease to exist. In essence, this means that your business, both its assets and liabilities, become the assets and liabilities of your estate. While a majority of states grant executors the authority to continue the business temporarily to help the heirs avoid financial loss, a business succession plan, based on your goals and wishes, is a more reliable planning tool for the future.

When deciding the fate of their businesses, sole proprietors generally choose one of three options: 1) passing the business to children or other family members, 2) selling the business, or 3) liquidating the business and selling the assets. Each choice comes with its own financial considerations as well as implications about who will assume control when you step down. Your exit strategy will depend largely on how you envision the future of your business.

Developing an Exit Strategy

As you think about the road ahead, consider the following questions: When would you like to retire? What are your financial goals? How long would you like to remain active in the company and in what capacity?

If you're passing the business to your children or family members, an important part of your succession plan will be choosing and mentoring a

continued on page three

Recruiting: Staying One Step Ahead of the Competition

Whether you run a small, family-owned business or a large company, attracting and retaining key employees is challenging in today's economy. Businesses often compete for skilled and talented employees in the same way they compete for a customer's business. So, how can your business set itself apart with top performers?

Robust Benefit Packages

In addition to a competitive salary, most potential employees have a certain level of expectation concerning benefit plans. When evaluating prospective employers, selective candidates may compare the core benefits being offered. The following benefits may be among their primary considerations:

Qualified Retirement Plan. With the shift away from defined benefit plans toward **defined contribution plans**, personal retirement savings are more important than ever, and the **401(k) plan** has become a sought-after vehicle for retirement savings. Prospective employees often expect, at a minimum, that a plan will be offered. Plans such as the 401(k) are enhanced with company-matched contributions.

Health Insurance. With the Affordable Care Act (ACA), many workers have entered the marketplace to purchase their own health insurance from state exchanges. For this reason, employer-sponsored health insurance, may still be considered an important employee benefit. Although the details and costs associated with company plans vary, prospective employees may place a high value on the availability of an employer-sponsored plan when conducting their job search.

Paid Time Off. As employees seek work-life balance, the amount of vacation and personal time offered by an employer is often an important consideration. In fact, many individuals value the amount of vacation and personal time available to them, even if they fail to use it all on an annual basis.

Flexibility. The change in workplace demographics and technological advances have resulted in the need for greater flexibility on the job. Therefore, it is important for businesses to recognize these trends and modify policies for flexible work schedules, as appropriate.

Work Environment. The workplace atmosphere can also be a major factor in employee satisfaction. Prospective employees may be looking at stress levels, communication styles, and the workload.

Selective Benefits

In some cases, Internal Revenue Service (IRS) anti-discrimination rules limit the benefits received by highly-compensated key employees. For executive-level employees, there are additional benefits that can be offered. The availability of these selective benefits can distinguish one employer from another.

Executive Bonus Plan. An employer may offer key employees a compensation bonus to be used for paying the premium on a **life insurance policy**. If an employee owns the policy, the bonus amount can be a deductible business expense for the employer. The employee must claim the annual bonus on his or her tax return as ordinary income. Any death benefit paid to the employee's estate or beneficiary is generally income-tax free.

Disability Income Insurance. For a highly-compensated employee, a group disability insurance plan may provide only a limited amount of coverage for sustaining an illness or injury that prevents him or her from working for a length of time. To supplement this coverage, an employer may offer additional, *individual* disability income insurance.

Voluntary Benefits. Through a voluntary benefit plan, an employer can offer a menu of benefit options *in addition* to existing core benefits. Employees choose the benefits that meet their respective needs and pay for them through payroll deductions, as defined by the specific plan. Because voluntary benefit plans are offered in a group setting, costs are generally more affordable than if an employee were to purchase similar benefits individually.

Business owners are realizing that a competitive salary is no longer the only factor sought by highly skilled employees in today's tight job market. Just as you shop for key employees, they shop for the employer that offers the best combination of salary and benefits for their specific needs. Therefore, you may want to consider creating a benefits package that keeps you one step ahead of the competition.

Investigating Employee Misconduct

The Federal Fair and Accurate Credit Transactions Act of 2003 (FACTA) relaxed the rules governing employer investigations of employees accused of misconduct such as discrimination, sexual harassment, and workplace violence, etc. A business can hire an outside firm to investigate allegations of employee misconduct without receiving the accused employee's written consent for the investigation. In addition, businesses are only required to provide a report when adverse action is taken and may withhold the names of interviewed sources.

Recent amendments to FACTA have set a new standard for what FACTA calls "employee misconduct investigations." FACTA now states that job applicants and employees who have undergone an employment background screening covered by the Fair Credit Reporting Act (FCRA) may receive a free annual file disclosure from the company that performed the background check.

Workplace investigations are conducted by a third-party that an employer may hire if an employee is suspected of the following:

- Misconduct relating to his or her employment.
- A violation of Federal, state or local laws or regulations.
- A violation of any pre-existing written policies of the employer.
- Noncompliance with the rules of a self-regulatory organization, such as a company that oversees the securities and commodity futures industry. ■

business succession planning for sole proprietors

continued from page one

successor before beginning the process of transferring control. Proper timing and comprehensive training can help ensure a smooth transition. This is also an important consideration for sole proprietors who are selling the business to their employees.

In addition to grooming a successor and developing a management plan for continued operations, it's essential to develop appropriate financial strategies for transferring assets or selling the business. This requires determining the value of your company.

What's It Worth?

A business valuation accounts for not only your company's tangible assets, such as equipment and real estate, but also for intangible variables, such as your client base, reputation, and patents for new technologies or products. There are a variety of ways to valuate your business, which take into account assets and earning power, so seek professional advice to make sure the estimated value of your company is accurate.

In addition to making sure you are fairly compensated if you sell your business, it's important to determine the fair market value of your company for tax purposes. If you're transferring your business to family members, the value of the business should be "reasonable" in the eyes of the IRS. There are tax-efficient techniques that can help you minimize your tax liability, such as making gifts of business interests over time, creating a trust, or establishing a family limited partnership (FLP).

If you're bequeathing your business to your heirs, plan for a possible estate tax liability. If the value of your estate exceeds a certain amount ($5.49 million in 2017), Federal estate tax may be due on transfers to any heirs, excluding your spouse. You can prepare for this possibility with life insurance, which can help pay your estate tax bill.

Life insurance can also be a valuable tool when incorporated as a funding resource in a buy-sell agreement. Although this type of contract is often used by partnerships and corporations, it can also be useful to sole proprietors who want to enter into a binding agreement with a buyer. Be sure to consult your financial, tax, and legal professionals about your unique circumstances.

Looking ahead and developing strategies for life's uncertainties can help ensure that your business continues according to your wishes and that your family's financial needs are met. Forced liquidation of a business can result in significant loss. To preserve wealth and prepare for the future, begin developing your business succession plan today. ■

Competitive Intelligence: Strategies for Success

In today's rapidly evolving marketplace, businesses that once relied upon traditional networks to supply them with clients and customers are now forced to become more aware of the competitive landscape in which they operate. Increasingly, market researchers are seeking out intelligence that can enable them to better understand their external competitive environment, including information about rival firms, industry trends, regulatory changes, and the demands of potential and existing clients.

Gathering Research

As practiced by most market researchers, competitive intelligence (CI) gathering is not akin to cloak-and-dagger corporate espionage. Instead, researchers generally adhere to accepted legal and ethical guidelines while trawling publicly available resources for clues about future developments in the industry. The data is then mined and analyzed in an effort to assess the implications of those developments for the individual organization. In the course of collecting CI, a marketer examines published materials available through sources such as the Internet and court records, and he or she may interview or network with industry experts, clients, and people familiar with competitor firms.

An obvious place to start when gathering CI is online. Trade journals and industry association websites are sources of potentially useful material, as are business and general newswires. While these news services will likely synthesize much of the market information of interest, you may also want to seek out more diverse online sources that provide updates on industry developments less widely reported. Depending on your business, these sources may include filings with the Securities and Exchange Commission (SEC), public record search services, market research services, government agency websites, and legislative monitoring services.

Networking is an invaluable source of knowledge about competitors. Gossip overheard at an industry event or conference can provide insight into rival firms that is not available in published form. Meeting with others in the industry, either formally or informally, also allows you to ask questions and probe for information that is of particular use to your firm. Even a casual conversation with a staff member from a rival firm can alert you to potentially important changes in the organization and in the industry as a whole. It is also possible to network online through blogs, discussion groups, and e-mail.

Analyzing Data

Competitive intelligence is about more than simply investigating rivals; the objective is to create a more successful organization relative to competitors. However interesting, the information gathered will only prove valuable if you are able to place it in a context relevant to your own company's market position. Information must be translated into "actionable" intelligence that can be applied directly to business planning and development. An analysis of the data collected can result in recommendations for new initiatives or changes in strategic direction, such as adjusting pricing structures or enhancing services.

When a business is able to predict more accurately which practice areas are likely to generate more or less business in the future, its leaders will be able to make more effective decisions about how to allocate resources. CI can also be useful in determining whether offering a particular product or service that appears to be in demand constitutes a sound business decision given market saturation levels.

While conducting competitive intelligence research requires some investment of resources, gaining a more thorough understanding of the competitive environment can help you avert some costly mistakes and anticipate a market for services that may not yet exist.