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From the Editor

Summer’s here and the time is right for — getting some important things done, such as finally putting a sensible and robust buy-sell agreement in place. It’s not an issue that demands to be dealt with each day, such as the ringing phone, bills, employee problems or customer demands, but it’s one that will one day pay sizable dividends. It will add value when you or one of your partners passes away or becomes disabled. Of course, it’s not a matter of if but when. The cover article in this issue tells you what you need to know to get started. It also tells you what you need to know to get it done right.

Another hot issue for the summer is the continued low interest rates. If you have not already taken measures to lock in low rates and protect yourself and your business from their eventual rise, read “Last Chance …” herein and — get with it.

More? This issue is packed with suggestions that can help you make and keep more money. Exactly what you’ve come to expect from us and have learned to appreciate.

As always, it’s a pleasure to serve you.

Sincerely,

David L. Perkins, Jr.
Managing Editor
The Business Owner Journal
If you have partners, you need to consider what will occur when a partner wants to retire or suffers death or disability. One way to minimize chaos and control the order of events is to design and execute a buy-sell agreement. Desirables include:

1. Preserve control by restricting transfers or sales of company stock to persons outside the company or owner’s immediate family.
2. Protect business assets and ongoing operations.
3. Provide cash or other assets (e.g., life insurance proceeds or promissory notes) to the retiring or disabled owner or family of the deceased.
4. Establish a method for determining the value of the business for estate tax purposes and transfer or sale of company stock.
5. Assure sufficient liquid assets are available to fund a buyout, pay federal and state estate taxes, and meet financial needs of surviving family members.
6. Reduce some of the risks inherent in grants of incentive stock awards to key employees.

**Structuring a Buy-Sell Agreement**

A buy-sell agreement can protect business value, reduce the likelihood and severity of shareholder disputes, and provide for continuation of the business beyond its current ownership. A buy-sell agreement can also be designed to provide income to the retiring or disabled partner or to the family of a deceased partner. Initial questions that need to be considered are:

- Should the buy-sell be cross-purchase or stock redemption? In a cross-purchase, share buyouts are affected by one or more partners buying the shares of another. In a stock redemption, the corporation does the purchasing.
- Should the buy-sell be funded with proceeds from life insurance on each owner’s life, and what cautions should the surviving owners take to assure payment?
- How will the business, or partial ownership interests in the business, be valued under the buy-sell agreement and will it conform to IRS valuation guidelines?
- Is the valuation method dynamic so that the valuation of the business changes as the business changes?
- Will changes in the business value trigger adjustments to mechanisms that will provide buyout funds?
- If insurance is the financing vehicle, should the premiums be paid by the company or the individuals?
- How can you structure the insurance policies to reduce or eliminate income and estate taxes?

**Buy-Sell Agreement Checklist**

Here are major items to include in a buy-sell agreement.

- Names of individuals, number of shares (ownership percentage), purchase price, and the corporate or partnership entity involved in the buy-sell arrangement.
- When the agreement will become effective: death, termination of employment, retirement or disability.
- Method of stock purchase: stock redemption, cross-purchase, combination of both, or *survivor’s option* plan, where the decision is not made until death or retirement of the owner.
- Buy-sell value (price) and method for updating the value over time, preferably every year or two. Keep in mind that the value of many closely held businesses can increase (or decrease) substantially from year to year.
- How the owner(s) will be paid for the stock: life insurance proceeds, promissory notes, other owners’ personal assets, company cash or a combination.
- Circumstances in which the ownership position (i.e., actual shares of common stock) can be hypothecated or otherwise encumbered for loans or other purposes.
- Whether the buy-sell is a legal *obligation* or only an *option* to buy or sell.
- Conditions in which the buy-sell is to be amended or terminated. Written approval of all parties or just a majority of shareholders or shares outstanding.
- State law governing the agreement and any alternative dispute resolution provisions.
- “First-offer” or “right of first refusal” clause stating that before a stockholder can sell his or her stock, it must first be offered to the corporation and/or other stockholders.
- Clause binding future owners to the buy-sell agreement (i.e., covering stock options issued to key executives and other employees).
- Provision for an independent trustee if the purchase price of shares is substantial and funded by life insurance. *Recommendation:* Use a law firm or financial

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continued on page 4
institution to make sure insurance proceeds are disbursed directly to your designated heirs/beneficiaries.

Valuation Methods to Use in Buy-Sell Agreements

Be aware that the IRS can challenge the price at which shares change hands. This occurs most often when no documentation exists to support the business’ value and price per share. Documentation is particularly important if the buyout is substantial. You can support your valuation and buy-sell price by using one or more of the following accepted valuation methods.

- **Book Value:** Simply the company’s total assets less total liabilities as presented on your financial statements. *Tangible net book value* also could be used. It excludes all intangible assets such as capitalized financing costs and goodwill.

- **Adjusted Book Value:** Amends the company’s book value to reflect any difference between book value and fair market value of certain assets and liabilities. For example, book value of depreciable assets such as buildings or equipment are often understated. The adjusted book value method usually renders a value higher than reported book value.

- **Replacement Cost:** Adjustment of all assets to their replacement value and then subtraction of all liabilities. Usually leads to a valuation that exceeds that of book value and adjusted book value.

- **Price-Earnings Multiple (P/E):** Value of the business is determined by applying a multiple to earnings of the business. The multiple, and how to apply it, is described in the buy-sell agreement. Important elements should be stipulated, such as type of earnings (pretax, after-tax, EBIT, EBITDA); earnings period (most recent 12 months, most recent fiscal year, average of the past four fiscal years); how debt of the business will factor into the valuation; and what to do if earnings are zero, near zero or negative. Earnings-based methods typically yield valuations far greater than balance sheet methods during periods of high profits. The reverse is true, of course, during periods of low or no earnings.

Your accountant can help you design and apply your valuation method. You might also use two or three of the methods and take the highest average or weighted average.

**Additional Considerations**

You should take other precautions to assure the buy-sell agreement’s validity and effectiveness. These ideas apply to both existing and new buy-sell agreements.

1. Each stock certificate subject to a buy-sell agreement should have a written legend stating such on the face of the certificate.

   Example: “These shares are subject to a buy-sell agreement dated ______________.”

2. If the company is to purchase shares, you will have to provide for it in the corporate minutes and possibly obtain approval, in advance, from any minority shareholders. Check with your lawyer.

3. The signed buy-sell agreement must be bona fide, entered into in good faith, and effected on an arm’s-length basis, particularly when transacting with family members. For example, you can’t set a low value on a small portion of your company stock and expect the value to apply to the remaining holdings for estate tax purposes.

4. The buy-sell price per share must be reasonable and legally binding. It cannot be a device to transfer ownership to family members at less than its full fair market value.

5. Include provisions that will aid if an active partner becomes disabled.

6. To defer taxes, you might want to consider building in an installment sale provision. Keep in mind, though, that delaying payments could increase risk of nonpayment.

7. In crafting an effective buy-sell agreement, consider also seeking advice from a mergers & acquisition expert and/or business valuation expert.

**Financing the Buyout of Your Stock**

Establishing the procedure by which stock is bought and sold on the departure or death of a shareholder is the first step in protecting the company. Providing money to carry out the procedure is the second.
You can’t assume that surviving owners will have enough personal liquidity to finance the purchase on their own or that they will be eligible to borrow the required amount. The price tag on shares in a profitable, growing company can be substantial. Nor can you assume the company will have sufficient liquidity or access to capital to fund the purchase on its own. You might want to consider another approach for providing the needed money.

**Life insurance.** Life insurance on the life of each owner can supply all or part of the needed cash. In the case of a stock redemption plan, the company buys the insurance and names itself beneficiary. A cross-purchase agreement could incorporate life insurance by each shareholder buying a policy on the other(s). Any insurance payout is then used to purchase the deceased owner’s interest.

**How much insurance?** Shares to be covered by insurance on each owner’s life represent a certain percentage of the company’s value at the time the insurance purchase is made. For example, if each of four stockholders owns 25 percent of a company valued at $1.2 million, then $300,000 life insurance must be purchased on each owner’s life. To reflect future increases in the value of the stock, the dollar amount needed to purchase the shares should be adjusted periodically along with the amount of life insurance relied on to finance the purchase.

**Joint life or first death.** Another possibility, where several owners have roughly equal shares of the company, is joint life or first death insurance. The policy covers all of the owners but pays the life insurance proceeds when any one of the parties dies. The insurance proceeds can be paid to the company or to the others in the group, depending on how the agreement was set up. Of course, if this type of insurance is used, it will be necessary to work out a new arrangement and take out a new policy after the death of any one of the owners.

**Covering a shortfall.** If life insurance is used, consider including a provision that addresses how a shortfall will be bridged. For example, if the policy pays $200,000 but the buyout is $300,000, should the surviving partner be allowed to pay off the shortfall over a period of years? Will an interest rate apply?

**Buy-Sell Taxation**

If a buy-sell agreement is funded with insurance, it is critical it be structured in a way that minimizes taxes. Generally, life insurance premiums are not tax deductible and life insurance proceeds are not taxable income when received by the beneficiary. If the company is the owner and beneficiary of the life insurance policy underlying a stock redemption plan, there is usually no taxation. It’s straightforward — the premiums are not tax deductible by the company, so the proceeds received are not taxed.

Problems can occur when the company is not listed as policy owner, but the company owner is. When the company owner dies and the company uses insurance proceeds to acquire stock from the deceased owner’s estate or heirs, the proceeds will be included in the value of the estate of the deceased. This could trigger significant, unnecessary estate taxes.

**Estate taxation is complex.** Talk to your tax attorney and financial advisor about the proper structure of your buy-sell agreement and related insurance policies.
Corporate Governance and Maintaining the Corporate Veil

The purpose for incorporating (C corp., S corp., LLC) a business is to protect investors (stockholders, owners, etc.) from personal liability for corporate (business) debts. To enjoy such protection, the corporation must be maintained in a certain manner.

• **Valid Incorporation.** The corporation must be set up correctly, according to laws of the state it is incorporated in. This typically means filing articles of incorporation in duplicate with the secretary of state. This is, in effect, an application for a corporate charter. If accepted, the state will issue a certificate of incorporation. Then the board of directors named in the application must meet to adopt bylaws, elect officers and transact such other business as may come before the meeting.

• **Conduct Business on a Corporate Basis.** This entails following requirements of the state the business is incorporated in. This typically means holding regular directors meetings, maintaining a corporate book with minutes of meetings, keeping corporate funds separate from funds of stockholders, and maintaining financial records on the business. For closely held corporations, the requirements may be relaxed. Check the laws of the state your legal entity is incorporated in and see Closely Held Corporation below.

• **Provide Adequate Financial Basis for the Business.** This typically means shareholders invest sufficient capital to meet reasonably anticipated requirements of the business. But once the business is initially capitalized, investors are not obligated to contribute additional dollars, even if the entity has financial trouble.

• **No Illegal Activity.** If the business is used to commit fraud, officers and directors can be held personally liable.

In addition, when executing agreements for the corporation, officers and directors must clearly sign in the name of the corporation — as corporate representatives and not individuals. The corporation also must file its own tax return, separate and distinct from individual return(s) of the owner(s).

**Closely Held Corporation**

Most companies are closely held, meaning that they have few shareholders, and shareholders serve as directors and officers. The result is a flattened corporate structure like the following:

![Figure 1. Management Structure of Typical Closely Held Corporations](image)

The result is that many statutory requirements of corporations — such as annual meetings of shareholders, elections of directors and appointment of officers — are simply formalities. Therefore, most small companies do not even bother. But failure to “act like” a corporation and adhere to legal requirements may result in forfeiture of limited-liability status. Fortunately, many states have enacted laws that relax nonessential governance requirements for closely held corporations. Such laws permit operation without a board of directors, broad use of shareholder agreements, waiver of annual meetings, and execution of documents by a single person acting in more than one capacity, such as chairman of the board and president.

To operate under these relaxed rules, some states require that the corporation both qualify as a closely held corporation (typically fewer than 50 shareholders) and elect “statutory close corporate” status. To avoid potential loss of the corporate veil, it’s critical that you understand the laws of the state your company is incorporated in and abide by them.

Visit the Business Guidance section at nmea.thebusinessowner.com for helpful articles on structuring your corporation.
Entrepreneurship is risky. Knowledge is power. Stuff happens.

Business owners should arm themselves with knowledge about how to minimize legal and financial exposure, then fully exercise their right to limit and manage liability. Before you sign a legal agreement, ask yourself:

A. How can I minimize my financial exposure by the way I execute this agreement?

B. Who is the actual counterparty to this agreement?

C. To what extent do I rely on this counterparty to perform in the future — financially or operationally?

The primary way businesspeople limit financial exposure is the legal entity. It’s one of the great inventions of modern commercial society. It allows people to take risks and shield their personal financial lives and/or their other legal entities. But it must be used wisely and properly — such as by signing agreements as a representative of one of the legal entities in a way that clearly demonstrates that you are not signing them personally.

When binding a legal entity, the signature block must have the full and correct legal name of the entity entering into the contract. Then underneath the legal entity name is the name and title of the “authorized representative” who signs on behalf of the entity. Here is an example of a properly styled signature bar:

“Purchaser” defined in your contract as

ABC Electronics, Inc., a Colorado corporation

By: ___________________________________
John Doe, Vice President

A signature block like the example above ensures that any party who makes a claim under a contract has recourse only against the legal entity.1 If an individual signs his or her name to a contract and there is no indication that the individual is signing on behalf of a legal entity, the individual could be held personally liable.

As a business owner, you should use legal entities to limit your personal exposure. If you have multiple legal entities, you should also choose wisely which legal entity to bind. Similarly, if your primary legal entity has considerable value and you enter into business ventures that are risky or could give rise to significant liability, talk to your attorney about containing the risk within a separate entity.

Make sure you can depend on your counterparty

The extent to which you rely on your contractual counterparty in the future dictates the level of care you should take to know his, her or its financial capacity and history of performance (or lack thereof). For example, if you buy a car in “as is” condition with no warranties of any type provided by the seller, there’s not much at stake in their financial wherewithal or trustworthiness.2

But, on the other hand, if you lease a piece of real estate for a multiyear term, as lessor, you rely on your lessee to pay sizeable sums over many years. You also rely on the lessee to care for and maintain the property and improvements. You have a lot at stake. Evicting and re-leasing can take a lot of time and money. Leasing to a party that is financially unfit or has a history of defaulting on commitments could result in considerable loss. You definitely want to investigate the financial condition and track record of the proposed lessee.

How? Ask questions. Who (or what legal entity) is the proposed lessee? Is it a subsidiary of another entity? How long has it been in existence? What is its federal tax ID number? Headquarters address? Corporate phone number? With the above information, run a Dunn and Bradstreet (D&B) report. Your banker can obtain it for you. Ask your attorney to search for legal filings that involve the entity and its owners and representatives.

Additionally, ask for financial statements, a current balance sheet and most recent full-year income statement and current year-to-date income statement. If they refuse, assume the worst. If they comply but you are not expert at reading financial statements, seek the assistance of your banker or accountant.

If you conclude the proposed entity is not fit for the task at hand, express your concern with the representative. Tell him or her you need greater financial strength to stand behind the agreement. Let them propose solutions: may-
When a company embarks on a venture that’s high risk, it may make sense to protect the established company from liabilities that will or could arise in the new venture. A commonly used and quite effective (and relatively inexpensive) means is to set up a subsidiary corporation and operate the new venture within it.

A subsidiary corporation is one in which another corporation, the parent corporation, owns at least a majority of the subsidiary’s stock and therefore has control over it. Such a structure can be effective at protecting the parent company from liabilities that arise in or as a result of the activities of the subsidiary, but only if the subsidiary is managed in a certain manner:

- Both corporations are adequately capitalized.
- Corporate formalities (e.g., election of officers, annual board meetings, filing of separate tax returns, etc.) are observed for each entity.

Failure to adhere to these could result in creditors being able to “pierce the corporate shield” and hold the parent corporation accountable for the debts of the subsidiary.

Risky Expansion? Consider a Subsidiary

Continued from page 7

be a new legal entity, maybe a parent company, maybe a personal guarantee, or all of these. But, of course, investigate the financial capacity and track record of any new entities, including persons, they propose.

If they take offense, explain that it’s not personal, just business. Don’t take verbal assurances. Accept only factual evidence. Talk is cheap. Entrepreneurship is risky. Knowledge is power. Stuff happens. Conduct your affairs in a way that protects and maximizes your interests. It could mean the difference between success and failure.

1 This relates only to contractual liability. The “authorized representative” who commits fraud or misrepresentation could be held personally liable for such acts.

2 Assuming, of course, that you are able to fully assess the condition of the car prior to purchase, and you are able to confirm that the true owner of the car, or the legal representative of the same, is the person you are transacting with.

“You can’t lead anyone else further than you have gone yourself.”

Gene Mauch

ESTATE PLANNING

To Make a Bequest

How can you stipulate who gets what at your death? A will.

What if your wishes change? Create a new will or amend your existing (by “codicil”). A codicil must conform to certain laws as to design and execution, just as the will must. You’ll want your attorney to assist you. Or just put your new wishes down on paper, then sign and date it. Actually, make three originals. Attach one to the copy of your will; give one to the attorney who created your will and one to the executor of your estate (as directed in the will).

The latter method is not as ironclad as the first, but it’s used regularly even by many attorneys. This is because it works in almost every case. The heart of probate law rests on a simple question: “What was the person’s intent?” If you use care in exercising this option, your intent should be clear and purposes should be served.

But bequests of assets with significant value, such as a business, should be made only in a will with the aid of an attorney experienced in such matters.
Michael Gerber’s *The E-Myth* is the book most frequently recommended to me. That’s probably why I never read it. I have a fad phobia. “In vogue” is a call to all lemmings, as far as I’m concerned.

*The E-Myth* was first published in 1985. The *E-Myth Revisited* was published in 1995. It’s perennially on lists of best business books. It’s on the required reading lists of classes taught at institutions of higher learning the world over, such as Stanford. Not sure why I finally decided to pick up a copy, but let’s just say I’m not hopelessly stubborn.

It’s a good thing. Gerber says successful entrepreneurs tend to be open to learning new things. Always searching for knowledge. On a quest to get better every day. Ready to drop less productive methods for better ones.

Gerber addresses what we all know — few businesses owners break through and find the quality of life, freedom and financial success they desire. But of considerable value is his reason why.

Most businesses are started by people with technical expertise, he says. The entrepreneurial (“E”) myth is that technical expertise can provide a strong foundation to build a successful business on. In reality, success comes only by learning and effectively implementing certain proven techniques for growing and managing a business.

I’ve said for years that businesses should exist to serve their owners. Similarly, owners should not be slaves to their businesses. Gerber agrees, but he ALSO tells us HOW we can organize our business so we may be better served. So we can have a business and also a life.

Gerber says the trick is to build the business so:

- Every job is standardized, i.e., all job functions detailed in job descriptions and job manuals
- Every person knows exactly what to say and do in every instance (because it’s detailed in a written job manual)
- All tasks, even managerial, can be performed by the lower-skilled (and lower-cost) workers

*The E-Myth* says every business should be built as if it’s going to be franchised and the business owner must move from technician (and laborer) to leader.

Gerber says operations should be standardized so each employee knows exactly what to do and when to do it, and so managers spend their time bringing in business. How? The business owner’s job is to determine which marketing and sales methods work best and standardize those, too. Standardize the client acquisition side of the business so that — just as the operating side — the lowest-skilled workers can execute and deliver results.

Gerber says the greatest development in business in the past century is the development of the franchise model pioneered by McDonald’s. Gerber says that 75 percent of franchises that open survive past their fifth anniversary. Non-franchise businesses — less than 20 percent.

I wish I had read *The E-Myth* 15 years ago.

“If a man empties his purse into his head, no man can take it away from him. An investment in knowledge always pays the best interest.”

*Benjamin Franklin*
Last Chance to Minimize Interest Expense!

Want to improve cash flow and enhance profitability over the next 5, 10, even 20 years? Convert variable-rate debt to fixed? Look into refinancing fixed-rate debt that’s currently higher than 7 percent or so.

Have a line of credit that is never fully paid off? Consider taking out a term loan and using the proceeds to pay off the portion that doesn’t “revolve.” You may want to consider doing the same with credit card debt.* Interest rates remain at historic lows. Residential mortgage rates recently dipped to 5 percent. Interest burden is low today, but the reprieve won’t last. Rates will soon rise and before you know it, you’ll be paying 8, 9, even 10 percent on variable-rate debt. Don’t think it will happen? Look at the accompanying chart of historical rates — prime and residential mortgage. Yes, the future will reflect the past.

If you want more evidence that rates are poised to rise, listen to the comments of Ben Bernanke, U.S. Federal Reserve chairman. The Federal Reserve sets interest rates and Bernanke says they are going to hold rates at their current low levels until the economy is clearly out of the recession. He has said this for a couple of years now, and economic data show the economy is out of the recession. Gross domestic product (GDP) is growing again — a robust 3 percent (annualized) in the most recently reported quarter.

During periods of GDP growth, interest rates rise. During periods of low or negative GDP growth, interest rates decline. We’ve been through low, even negative, growth for a few years now. We’re now shifting to a period of interest rate increases.

**Convert Variable Rate Debt to Fixed.** If you currently have debt you pay a rate on that changes as the prime rate changes, talk to your lender about locking in a fixed rate. You might pay a slightly higher rate today, but you’ll be protected from rate increases and also know exactly what you’ll owe in interest and principal going forward, which helps for budgeting.

Credit card debt carried as variable-rate debt is at punishingly high rates. If you carry a balance on credit cards, talk to your banker about a loan to pay off your credit card(s) with a term loan (which has a fixed rate of interest).

**Refinance Fixed-Rate Debt.** If you have fixed-rate debt at a rate above 7 percent, talk to the bankers you know today about refinancing. The table on page 11 shows how the change in interest rates can affect annual interest expenses paid on a loan. Over the life of a loan, the interest rate impact is even more significant. For example, a 2-percentage-point interest savings on a $1 million, 25-year note is $390,000 over the life of the mortgage.

Again, if you don’t think we’ll ever see rates at 10 percent or greater, think again. History tends to repeat itself. Also, one way to deal with our federal debt problem is inflation.

**Pay Attention to Terms.** In evaluating loan options, there’s more to consider than the interest rate. Up-front expenses such as “points,” closing costs and even legal fees must be evaluated. The best method for comparing loans with varying terms is net present value (NPV). Review this article online to download a calculator (in Excel). It makes the job easy. The loan with the lowest NPV (all loans have a negative NPV) is the least expensive and therefore most attractive.

**Effective Interest Rate.** Another way to compare loans with varying terms is to calculate effective interest rates (EIR). It entails amortizing up-front costs over the life of the loan.

A 2-percentage-point interest savings on a $1 million, 25-year note is $390,000 over the life of the loan.

*continued on next page*
the loan, i.e., adding the cost to the interest expense and recalculating the rate. Although this method is simple, it is not as desirable as NPV because it doesn’t take into account the time value of money. One thing that makes up-front costs so expensive is they’re due up front. Given a choice, you would rather pay in installments over the life of the loan. That’s what the effective interest rate calculation assumes, but not how it is in real life. So the EIR method understates the true cost of up-front fees. The NPV method does not. Still, EIR calculations are one way of viewing the cost of points and up-front fees.

The two tables display the effective rate calculations for various points paid on loans with 5-year and 25-year amortizations. One point is simply 1 percent of the loan value. So, for a $100,000 loan, two points is $2,000.

Comparing the two effective interest rate tables, you can see that up-front expenses have a far more substantial impact on short-term loans compared to long-term loans. When points are required to “buy down” an interest rate, doing so is far more attractive when the loan term is long.

**Prepayment Penalties.** Many loan terms include prepayment penalties. Calculating their effect can be tricky because they come into play only if you need to pay off the loan before its natural expiration date. This most often comes into play when interest rates fall and you wish to refinance. The chances of this happening to you on a loan you close today are slight, but you should consider this feature nonetheless. Comparing options to refinance involving a prepayment penalty, simply calculate the NPV of the existing note, using the calculator we provide online. Then calculate the NPV of the refinance option by entering the data for the new loan and include any prepayment penalty on the old note as an up-front expense on the new. Whichever option offers the lowest NPV is the most attractive (financially). Again, when using the Excel calculator, the loan with the lowest negative number is the least expensive.

* Term loans require collateral and are therefore secured debt. Credit card debt is unsecured, of course, so you should take this into consideration before refinancing credit card debt with term debt.
Plan by the month, not by the year. Keep a daily log of three things: bookings, cash collections and owner withdrawals. These are Mark LeBlanc’s suggestions. He’s a veteran of the public-speaking circuit. You know: land speaking gigs, sell books at the back of the room, do some consulting and coaching.

It’s not an easy business. Scores are lured each year by the glamour of getting paid handsomely to travel the globe and entertain groups over lunch or dinner. Many try. Few make it. It’s a business, to be sure, and like every business, it’s not nearly as glamorous as it looks and a whole lot more work than people realize. Few find enduring success. Mark LeBlanc apparently has, and he started out 25 years ago with little more than determination. The niche he’s carved out helps business owners grow their businesses. He’s written a little book aptly titled Growing Your Business! I attended a presentation by LeBlanc to a group of public speakers. Aspiring public speakers, I think it’s safe to say. His advice?

A. **Focus on just three things: bookings, cash received and owner withdrawals.** Track each on a daily, monthly and rolling 12-month basis. Keep all three rising.

B. **Set goals monthly.** Setting goals and having focus are important. Most of us do the first of each year. So when you’re off track by the third week of January, why let another 49 weeks go by? What kind of goals should you set each month? Just one: bookings. Each month, set a goal for bookings. LeBlanc calls it your “optimistic number” for the month. Then work each day to hit your optimistic number.

LeBlanc offered the following advice to keep focused. Each morning ask yourself:

*What am I going to do today to book my optimistic number for the month?*

Then each evening ask yourself:

*What did I do today to book my optimistic number for the month?*

At the break, I explained to LeBlanc that this is all simple until you’re swamped with work. When you’re busy, all this prospecting goes out the window. He understood, of course, but said if you want to continually make more money, you must continually focus on the three key things: bookings, cash collections and take-home pay. Yes, you must deliver your service and handle administrative duties such as collections, but your job is to figure out how you can get the work done and also continually focus on growth.

He said business owners also tend to get distracted on all kinds of things that don’t contribute directly to booking revenue and taking more money home. Focus on the three essentials and the unproductive activities will automatically fall away. I like LeBlanc’s advice. It’s simple. Makes sense to me.

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**TAX**

**Cap Gains Rate Rising**

The federal tax rate on long-term investment gains is currently 15 percent. Under current law it’s set to rise to 20 percent in 2011. How might this affect you? If you have an investment you plan to sell, and do so in 2010, you’ll pay a little less tax. For example, if you invested $300 and sell it for $500, your gain will be $200. Sell it in 2010 and your tax will be $30. Sell it in 2011 and your tax will be $40, a 25 percent increase.

Selling a business? First of all, most healthy, profitable businesses sell for more than their book value. Here’s a typical example. Sale price of $1.15 million — $1 million after sale expenses, i.e., legal and broker fees. Based on its assets, it’s $500K, so the first $500K is not taxable. Depreciation recapture of $100K taxed at ordinary income rates. Assuming the entire amount will be taxed at the highest rate, the tax on this portion will be $35K. The remaining $400K of sale price is taxed at capital gains rates.

If your deal closes in 2010, under current federal law, the tax on the capital gain portion of your sale will be $60K. Close in 2011 and it’ll be $80K. Here’s the breakdown of your total tax:

<table>
<thead>
<tr>
<th></th>
<th>’10 Close</th>
<th>’11 Close</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax due at ordinary income rates</td>
<td>$35K</td>
<td>$35K</td>
</tr>
<tr>
<td>Tax due at capital gains rates</td>
<td>$60K</td>
<td>$90K</td>
</tr>
<tr>
<td>Total tax due</td>
<td>$95K</td>
<td>$125K</td>
</tr>
<tr>
<td>Net to owner*</td>
<td>$905K</td>
<td>$875K</td>
</tr>
<tr>
<td>% of total taken by fed tax</td>
<td>9.5%</td>
<td>12.5%</td>
</tr>
</tbody>
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* Before payoff of any debt, if applicable
It’s Official: You Survived One Nasty Recession

April 23, 2010

It’s over.

Word may not have reached your desk yet, but the bleeding has stopped. The fever has receded. The prognosis is for a full recovery.

Dr. Jeffrey Dietrich — senior analyst for the Institute for Trend Research — presented the latest economic data today. Dr. Dietrich said:

• Good things are happening in the economy.
• All indicators are positive.
• The turnaround is under way.
• Growth will occur through the remainder of 2010 and through 2011 and 2012.
• No “double-dip” recession will occur.

He didn’t even hedge his bets. He seemed to be unequivocal about his beliefs about the immediate economic future. He says the data are clear and convincing.

Sure, people everywhere are pessimistic. Doubting that the sun is rising again in the east. Dietrich says, “Of course they are. It’s human nature. But now’s the time to pick up some key talent and begin selling again. Wait until unemployment starts to fall and it’ll be too late.”

Stay the Course Despite Stock Market Drop

June 1, 2010

What can we read into the stock market dive of late?

It’s just a sign things are getting back to normal.

According to Richard Cripps, chief investment officer at Stifel Nicolaus, “There have been 92 corrections of 10 percent or more since 1928, or one every 11 months.” In April he said a 10 percent correction was likely to occur soon, based on historical precedents. “We are due,” Cripps said.

And it did.

How should the business owner respond to this troubling drop?

Ignore it.

We’re not going back to 2009. The recovery is at hand and its time to spend again on growth. Add sales staff; boost marketing; ask for the order. Don’t let the storm clouds discourage you. It’s time to sow the seeds that will provide you with a bountiful harvest as the economy continues to recover and expand.

Master the Art of the Symbolic Gesture

To grow your business, you must continually entice new people to give you a try. To buy something from you. And because they don’t have actual experience with you or your products, they make their purchase decision based on signals of quality, integrity and dependability. “Symbolic gestures,” as Quy Huy and Christoph Zott call them.

Symbolic gestures can be made in all sorts of ways. Commonly it’s things such as your appearance; your business card or brochure; the look and feel of your website; the way you answer the phone; your customer testimonials; your well-appointed office space; your impeccably planned social event; your thoughtful follow-up note; your fine customized gift; or you associating with prestigious persons or organizations.

As described in the article “Trust Me,” Huy and Zott interviewed 28 entrepreneurs seeking funding for their venture. They found that the ones who eventually succeeded tended to be “masters of the symbolic gesture.” They refer to it as sending messages of credibility and professionalism.

They also found that success tends to follow those who can persuasively explain how they are personally committed to the project. Why he or she is uniquely committed to the venture’s success. Huy and Zott says that to convey this requires getting personal. To reveal more of yourself.

People judge a book by its cover. Perception is reality.

The most successful entrepreneurs tended to be “masters of the symbolic gesture.” Persons who regularly go out of their way to demonstrate a commitment to quality, such as going the extra mile to ensure that presentation attendees and website visitors, or impromptu guests at their offices, for example, have a first-class experience.

Visit nmea.thebusinessowner.com/business-guidance for more great articles you can use today to improve your business.
Business owners find their motivation in varied things. Commercialize a pioneering methodology. Be one’s own boss. Prove naysayers wrong. Provide a great place for people to work.

While every entrepreneur has his or her unique set of goals, virtually all share one in common — to one day sell for a boatload. How much? Well, more is better. And so the question every business owner asks is: “What can I do today to maximize the eventual sale price of my business?”

To be sure, the answer depends on where the business is in its development and the time horizon of the business owner. But whatever the answers are to these questions, there are things that can be done. Acquisition Advisors has put them on paper. A single piece of paper.

“When the goal is to get absolute maximum sale price, the task entails both building a business that possesses the characteristics desired by buyers and conducting the sale effort in a certain manner,” says David L. Perkins, Jr., managing director of Acquisition Advisors. “Our ‘Best Practice Map’ titled ‘The Path to Absolute Maximum Sale Price (of a business)’ clearly and simply shows the important elements of both.”

The map format — as opposed to an article — allows a tremendous amount of information to be summarized in an easy-to-read format. The instructional “best practice” data are organized into four distinct sections. Each section is a phase in the journey that leads to the sale of the business at maximum value:

Phase 1: Build a Valuable Company
Phase 2: Plan and Prepare for Sale
Phase 3: Execute Sale Strategy
Phase 4: Post Closing

Under Phase 1, for example, two sections offer valuable guidance to business owners: “Accumulate Value Drivers” and “Eliminate Barriers to Marketability.” Listed are 19 value drivers and 11 barriers to marketability. Perkins explains, “To the extent a business owner can add the value drivers and eliminate the barriers to marketability listed, the value of his or her business will rise. Incidentally, the business will also enjoy enhanced profitability, lower risk and greater stability.”

Most of the map — indeed three of the four main sections — is dedicated to how a business owner should go about the process of preparing, packaging and selling his or her business.

“There’s definitely a right way and a wrong way to go about the sale of a business,” says Perkins. “Unfortunately, common sense does not lead the business owner down the right path. But the lessons of experience have, over time, revealed the path that will take the business owner to absolute maximum sale price. The essential elements of this ‘best practice’ are displayed in our map.”

Visit AcquisitionAdvisors.com/Best-Practice-Map to view it. Acquisition Advisors consults on the purchase and sale of midsize U.S. companies and is owned by DL Perkins LLC, publisher of The Business Owner.
A free how-to guide for business owners who wish to exit one day in a quiet, orderly and professional manner — for maximum value. Published bimonthly and written in a no-nonsense, straight-to-the-point style, The Quiet Exit delivers tips, tactics, strategies and wisdom from the desk of David L. Perkins, Jr. — one of the top mergers & acquisitions experts in the United States, who specializes in the lower-middle market (i.e., transaction values between $5 million and $100 million).

Subscribe to The Quiet Exit free at TheQuietExit.com.

This free publication is a service provided by Acquisition Advisors LLC.
In clear, concise English it will teach you the basic concepts of business valuation, to help you maximize the value of your company in anticipation of a possible sale.

You’ll learn what small and midsize businesses really sell for.

You’ll be given a simple technique for determining whether the price you want for your business is reasonable.

You’ll learn how to handle the balance sheet, how and why to recast financial statements, and how to determine the true value of your business.

You’ll read about the six big mistakes commonly made by do-it-yourself business sellers.

You’ll learn about the 17 “value drivers” that could enhance your business and improve your selling price.

What are some of the mistakes commonly made by business owners in trying to sell their businesses?

- They waste time and money with buyers who will never close.
- They have no realistic understanding of fair value and terms.
- Though naive, they negotiate directly with experienced buyers.
- They fail to control ego and emotion.
- They hire an attorney too soon.
- They suffer from poor salesmanship.
- They deal with buyers one at a time.
- They are way too accommodating.

Don’t make these mistakes!

Order a copy of *Concise Overview of Business Valuation* today!

<table>
<thead>
<tr>
<th>Qty</th>
<th>Unit Price</th>
<th>Total</th>
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