

Know your options

How to determine the best structure for the sale of your business

INTERVIEWED BY ADAM BURROUGHS

In a traditional sale of a business, owners often make a relatively straightforward transaction — they sell the entire company to a buyer, get paid and walk away.

Deal terms need to be set between buyers and sellers. What is discovered during those negotiations will determine if a traditional sale is optimal, or even possible.

“It’s critical to a deal that sellers know what they want before negotiating,” says Michael Makofsky, a principal at McCarthy, Lebit, Crystal & Liffman Co., LPA. “Sure, they want to be paid, but in many cases, there’s more to it.”

Smart Business spoke with Makofsky about alternatives to a traditional sale and what owners need to do to prepare ahead of negotiations.

What would indicate that a traditional sale isn’t in an owner’s best interest?

It comes down to what the owner needs to get out of the sale of his or her business. For instance, the owner might need to live off the purchase price for the rest of his or her life. That may drive decision-making in a deal, or at least a push for more money, and that might not work with a buyer.

A seller might still want to be involved in the business, either in the day-to-day or as a consultant. Most buyers, however, will want a clean break so they can pursue other interests.

Typically, a business owner wants to see the employees taken care of and that management can stay on. That may not align with the buyer’s idea of the business going forward.

In the case that these caveats exist, a traditional sale may not work.

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What options other than a traditional sale exist?

There are many ways to structure a transaction. Recapitalization, for instance, is an option in which an owner doesn’t sell the entire business. Instead, he or she keeps partial ownership, selling the majority and holding the minority, or vice versa. An owner can maintain a stake in the company and stay involved, while bringing in a buyer who the owner believes can benefit the business. In this structure, the new buyer will want to maximize the company value and sell for a return, which gives the owner a second liquidity event if the value during that time increases. On the flip side, the original owner has another person to deal with, so it has to be someone who the owner is comfortable working with.

A management buyout is another option. Here, the managers become the owners of the company, and the original owner gets the proceeds as well as the comfort of knowing the new owners understand the business, are capable and are likely to keep most or all of the employees. It offers continuity compared to selling to an outside buyer, but sometimes the managers might not have the funds to purchase the business, so the financing has to be worked out.

Who should be on the owner’s deal team?

Lawyers, financial advisers and accountants

are all essential members of a deal team. More than their professional designations, however, team members need real-world buying and selling experience and the ability to combine their respective strengths to become a team.

Working with advisers who haven’t sold a business puts an owner at a disadvantage. Sophisticated buyers won’t point out to the seller’s attorney that something was missed. They’ll take advantage of the opening.

What should owners do ahead of a sale event to maximize their return?

Owners need to think about their timeline well in advance of starting the sale process. Typically, it’s a three- to five-year planning process, much of which centers on positioning the company in the best light.

Buyers expect the company’s financials, corporate documents and contracts to be in good shape for due diligence. When buyers find things they don’t like or things the owner can’t explain, it affects a deal in the form of concessions, a lowered purchase price or the termination of negotiations.

How a business is sold hinges on the wants and needs of the seller and buyer. Structuring a deal that works for everyone takes creativity, flexibility and a knowledgeable deal team to achieve. ●