



Financial Adviser

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The Attorney and Accountant Partnership: Teaming Up for Client Success

Knut Rockne, regarded as one of the greatest coaches in college football history, was quoted as saying, "The secret of winning football games is working more as a team, less as individuals. I play not my 11 best, but my best 11."

This philosophy that the effort of the collective team can contribute more to the success of the endeavor than the performance of a single individual applies to not only sports but to business. This is especially true for businesses related to the accounting and legal professions.

Following are different areas where the legal and accounting professions team up to achieve successful results for clients. The legal, tax, valuation and accounting issues usually are considered in these areas.

Merger & Acquisition

Generally, one of the early steps in buying or selling is the determination of value of the business. Depending on the circumstances different levels of value may be considered. The appropriate value may be the standalone Fair Market Value (FMV) or sometimes the higher Strategic Value can be achieved if suitable target buyer(s) can be identified.

The sale structure (sale of stock or sale of assets) tax analysis and related negotiation has to be conducted by the parties.

On an asset sale the FMV of the individual asset classes needs to be determined for required tax reporting. Purchase agreement language, if required, needs to be developed to account for the company change in value from the date of sale to the date of closing.

Succession Planning and Wealth Transfer to the Next Generation

The objectives of the accountant and attorney in succession planning and transfer of wealth are to minimize gift and estate tax consequences and, at the same time, establish a mechanism for transfer of control to the future leaders of the related entities. This technique can be considered in conjunction with business ownership or investment assets.

For the business the legal technique of recapitalization of the corporate ownership into voting and non-voting stock or establishing a similar structure for other business entity types is the first step. This change usually allocates a higher percentage

of non-voting stock to that of voting stock. This initial phase allows for the transfer of reduced value non-voting stock (non-controlling or minority interest ownership) and the proper timing for the transfer of control can also be considered.

Another wealth transfer consideration is the funding of a legally established Family Limited Partnership or similar type entity. This type of entity is usually funded with investment assets such as marketable securities and real estate. The structure for this entity also can consist of controlling (general partner) and non-controlling (limited partner) interests. The ratio of controlling to non-controlling ownership can be skewed to non-ownership interests as well.

These lower value ownership interests (business or investment asset interests) can be gifted tax-free by using the annual gift tax exclusion and/or lifetime gift tax exemption.

Other legal transfer techniques also can be considered if deemed appropriate. Depending on the specific facts and circumstances different legal structures can be utilized for transfer. Some of the vehicles used are Grantor Retained Annuity Trust, Intentionally Defective Irrevocable Trust, Installment Sale and Private Annuity. ★

Other Areas of Collaboration

Some other areas of law that consider forensic, income analysis, accounting and/or valuation services provided by the accounting profession include:

- Family Law — usually in the valuation of business interests that are considered assets of the marital estate
- Troubled Businesses and Bankruptcy, Chapter 11 Reorganization
- Enterprise Lost Profits and/or Economic Damage Claims
- Dissenting Shareholder Actions
- Wrongful Death/Personal Injury Economic Damage Claims

If you would like more information or would like to discuss in more detail any of the areas mentioned in this article, please contact Bob Power at McGill, Power, Bell & Associates, LLP at 814/453-6594 or rpower@mpbcpa.com.