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So you want to sell your business?
How to prepare to sell your business.

You are past the expansion phase and now you want to cash out. What do you do? Before you put a "for sale sign" in the front yard and begin courting potential buyers, you would be best served to do presale planning.

Here are steps to help you get ready to sell your business:

1. IS THIS THE RIGHT TIME?
   The time to sell your business is when you are going strong. If your business or industry is in a lull, the focus should be growing your net revenue and profits. This can be done in many ways, such as decentralizing your client base, focusing on your core competencies, and good old-fashioned cost cutting. Buyers will want to see strong metrics, most commonly EBITDA (earnings before interest, taxes, depreciation and amortization). The stronger this is, the higher multiple you can command.

2. POLISH YOUR BOOKS.
   The buyer will be focused on metrics. Avoid red flags by having at least 3 years of manicured financials and tax returns. Having an independent CPA prepare these gives a buyer more confidence than financials prepared by an internal bookkeeper or do-it-yourself software. From the practical side, if your business is family-owned, do your best to remove any unnecessary expenses (e.g. your leased luxury vehicle, your child's part time position for "website consulting", loans from your business to you, grocery store trips, and so on). Selling unnecessary or personal assets can also be beneficial. Remember, you are selling a polished piece of kit here, not a fixer upper with potential.

3. KNOW YOUR WORTH.
   Engage a reputable business broker or certified business valuation professional to give you a realistic idea of where you stand in comparison to similarly situated businesses in your industry. This will also help you identify where you need to focus on improvement.

4. SECURE YOUR KEY EMPLOYEES.
   Every business has some element of human capital. Develop an action plan to incentivize long term commitment. Some approaches include incremental compensation increases and bonus programs, profit sharing pools, and equity incentive plans. Each of these have pros and cons, so be sure to pick the method that works best for your situation (e.g. giving an employee equity sounds great, but is not always the best solution). Also, you may consider having your employees enter into non-competition, non-solicitation, and confidentiality agreements to prevent them from leaving with your customers and starting a competing business across the street before you can sell to a potential buyer.

5. **Document ownership of your business.**
   Make sure you have clear provenance to the company equity that is held by each owner. Have a document for when each owner came on (e.g. equity purchase, grant, or founder's equity agreement) and when each past owner left. Remember that web developer you promised equity to in exchange for a website when you did not have cash on hand? Do your best to document the transfer of that equity or consider a repurchase and release to prevent any problems down the road.

6. SQUARE AWAY YOUR INTELLECTUAL PROPERTY.
   It is not uncommon for a large part of your business's assets to be intellectual property. Whether that is branding / trademark, proprietary software, or process know-how, these items add value to your business. Buyers want to see you have good and clear title to them. Consider having your employees sign instruments that make it clear that you own the application code or product tooling design that you are paying them to develop (often called an employee invention agreement). Also, review your third party vendor and contractor agreements that involve creative material (e.g. website content, mobile application, and marketing materials) to confirm that that the work product is assigned to your business. If this is unclear, now is the time for curative action. You may also consider applying for federal trademark registration to secure your brand. This is one more feather in your cap to sell. The buyer will be happy to hear that you have taken the time to secure your brand.

7. MAKE A PAPER TRAIL.
   More often than not, business is conducted by telephone and email without an underlying contract. This works until there is a problem. Get ahead of the curve by having signed agreements with your vendors and customers. Even if you have a signed agreement, I can tell you that there are very few snack vendors, for example, that use contracts with the to-be-sold business in mind. If you use a broad range of vendors and they frequently hand you their contract to sign, you may consider having simple 2 page addendum that you can add at the time of signing (or renewal) with provisions that cover the basics (e.g. termination without cause by you, assignability to your buyer without consent, indemnification, clear independent contractor status, and confidentiality to name a few).

8. KNOW YOURSELF.
   You need to know your strengths and potential to develop a meaningful pitch deck. What are you selling and why? What is your EBIDA, Cost of Goods Sold, and Net Revenue? What is your largest expense category? What are the synergies of your business ecosystem as a whole? Who are your top 10 customers and vendors? Remember that you are selling an assembled kit that generates revenue, not just pile of assets and a few financial statements.

9. MAKE THE MAGIC TRANSFERABLE.
   That is, de-emphasize your role and cross train others in your organization to make your business easier for the buyer to integrate post-sale (this is on the forefront of their minds, believe me). To prevent transition problems, get others involved with the relationship side of your business (e.g. give your employees customer and vendor contact). Human capital may be an attractive part of your business, but a buyer needs to know your revenue machine will plug in to their brand and continue to operate when you are no longer at the helm.

10. GET ORGANIZED TO MAKE THE BUYER'S HOMEWORK EASY.
    Start organizing now. Your buyer will hand you a due diligence request list of things you must provide so that they can evaluate your business. If you have less than perfect housekeeping habits or a long operating history, you may consider finding a basic due diligence checklist and working it backwards to prepare for the big day. Recordkeeping has powerful optics. If your records are thorough and organized, the buyer will infer that your business has been run with the same precision. Conversely, if you provide a banker's box of archaic financials and an amalgamation of disjointed paperwork and .pdf files, your buyer will be less confident and may see a long tangled mess ahead.

11. GET HELP. ASSEMBLE YOUR TEAM BOTH INTERNALLY (E.G. KEY EMPLOYEES) AND EXTERNALLY.
    Interview and hire a reputable accountant, attorney, business broker / investment banker, and other professionals to advise you during this process. The thought of engaging professionals may strike you as an unnecessary expense, but know that working with someone who has done this before and knows what is important to buyers will save time and help you in your quest achieve your maximum value for your business.

In all, working through the above will assist you in getting ready to sell your business and will help you put your best foot forward when you enter the market.

If you have questions about buying or selling your business please contact Daniel Hofherr at *dhofherr@offitkurman.com* or 703-745-1818.

ABOUT DANIEL HOFHERR

Daniel Hofherr is an attorney in the Business Law and Transaction practice group. He advises clients that are in all phases of the business lifecycle from startup, to growth and expansion, and maturity and exit.

As a business lawyer, Mr. Hofherr assists clients in matters such as developing internal corporate governance framework, admission and separation of equity owners, private equity financing, employee retention incentives, customer contract management, intellectual property licensing, and business succession planning.