Legacy ADVISORS GROUP

M & A UPDATE®

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Business Planning for 2011

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Introduction

With the start of a new tax year and the economy now in recovery mode, this is the best time to update the strategy for your business. Too often business people wait until late in the year to do their planning. While there are some actions that can be taken at that point, those who work proactively throughout the year implementing business and tax strategies fare far better than those who put planning off to the last minute. There are plenty of items and tax planning that should be attended to throughout the year. Lets look at some of the basic concepts.

Business Operations

According to the National Bureau of Economic Research (NBER), the economy is now in recovery. While it still feels like a harsh recession, hiring has improved and many publications, including the federal Beige Book, give reason to find optimism. Now is the time that businesses should work hard to increase revenue and look to hire additional staff. Lately, the trend has been that American businesses hire temporary staff ahead of hiring full time employees; so start now to look at your labor needs and hire temporary staff that can become full time employees as the demand increases. Business is predicted to pick up in the near future; it is therefore the appropriate time to ramp up man power.

Investments

Even though the country's economy is now recovering, some lingering benefits of the recession are still around. Instinctively, businesses tend to cut investments when business is slow. Ordinarily, this response to the business stimuli would be appropriate. However, given increased Internal Revenue Code section 179 expense deductions and manufacturer's incentives to purchase more investments like trucks, equipment, and even buildings, economic down turns tend to be excellent times to increase investments in business property, especially if the investments will create more efficiency in operations. The superior financing and tax incentives during an economic downturn, and now subsequent recovery, are and usually do

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A CASE STUDY

In filing a Gift Tax Return, a donor of closely held stock failed to disclose on the return the method used to value the stock or any description of the discounts taken in valuing the stock. The IRS Office of Chief Counsel has ruled that this lack of disclosure indicates the gift tax can be assessed on the transfer at any time. In order to comply properly, the transfer must be adequately disclosed by including a description of the property transferred; the identity of, and relationship between, the donor and donee; and a description of the method used to value the gift, including any discounts claimed.

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Mike Ertel is a Certified M & A Advisor and a Principal Broker with Legacy Advisors Group, a full-service M & A Advisory firm with an office in Tampa, Florida specializing in representing sellers and buyers of small- to mid-sized companies. Prior to joining Legacy Advisors Group, Mike's business career spanned 30+ years with Fortune 500 and Fortune 1000 Companies, with senior management roles in Marketing, Operations and Logistics. Mike also served as President, COO of a mid-sized Manufacturing company headquartered in Tampa. Mike also holds a BS in Electrical Engineering and an MS in Industrial Administration, both from Purdue.

outweigh any benefit through saving money by cutting back on needed investments. Further, if you do not reinvest now, you may have to reinvest later, when the tax and manufacturer's incentives are not as good as they are today.

Financing

The economic down turn has also brought with it lower financing rates that are currently remaining in the recovery. The financing on buildings and equipment may be eligible for lower refinancing rates. Check with your bank to see if your current loans can be refinanced and determine what the rates are if you do purchase equipment and need financing. Just be sure to check the fees and costs before committing to any refinancing.

Estate Planning

Many business people have complex estates. Along with the complexity, the average net worth of a business person is substantially higher than an employee. On its current course, Congress has raised the estate tax exemption; if your estate is close to the new level, you need to consider estate planning. Now with the changes in housing values, the potential increase in business value, individually owned retirement accounts and other sources of wealth, an average business person's estate may very easily be over the maximum amount of the current or future tax exclusion amount. It is best to begin estate planning early in the year so issues can be resolved throughout the year and the estate plan can have time to operate during the year. Please review your total estate value and start the process of a complete estate planning process now.

Succession Planning

Along with estate planning, comes business succession planning for those who own businesses. Business succession planning is not as simple as drafting a will. Business succession planning, when done properly, provides a smooth transition for the succeeding generation. The process includes the valuation of the business and the creation of legal documents, such as a buy/sell agreement (the most important legal document a business owner can have.) When succession planning is not done or is done improperly, it usually means the loss of the business and therefore the loss of your lifetime of hard work. Don't procrastinate, start the process now!

Conclusion

Beyond the items discussed above, there is plenty that can be done to improve your financial and tax situation throughout the year. Too often people approach financial, tax, and business planning as an after-thought of running the operations of their business. Operating a business in this manner does not afford the business person an opportunity to see the bigger picture. Running a business without a plan to exit and retire is similar to driving a vehicle with no destination in mind. Proper planning and implementation of an exit, succession and tax strategy allows you to keep more of your hard earned cash and allows you to have a better retirement when the time comes. If you are not sure where to start or how to start, please contact the experts at the Center to assist you in your exit, succession and tax planning strategies.

Dr. Bart A. Basi is an attorney, CPA, and the Senior Advisor of The Center for Financial, Legal & Tax Planning, Inc, a full service company specializing in financial, legal & tax matters. Basi is a nationally recognized author, lecturer, and advisor on how to structure deals to minimize taxes. Tax structure makes the difference between getting the deal done and watching the deal fall apart. Many of you may be familiar with Basi and the topics he covers in the Financial, Legal & Tax Advisory which may be read in various industry-specific trade publications.

A CASE STUDY CONTINUED:

Editor's Comment: Generally, the IRS has a three year statute of limitations from the date of filing a tax return upon which to assess a tax. The IRS Office of Chief Counsel has interpreted the above situation as falling under the exception where the value of the gift was not included on the return; thus no statute of limitations began to run.

What a problem! Gifting stock in a closely-held company is not the best way to transfer ownership. However, if you do gift stock, you must comply with the rules. This ruling clearly shows what not to do.

Contact The Center to properly determine the value of stock and the correct way in which to complete and file gift tax returns.

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Points of Interest

- **According to the National Bureau of Economic Research (NBER), the economy is now in recovery.**
- **It is best to begin estate planning early in the year so issues can be resolved throughout the year and the estate plan can have time to operate during the year.**
- **Proper planning and implementation of an exit, succession and tax strategy allows you to keep more of your hard earned cash and allows you to have a better retirement when the time comes.**

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Why Use A Professional M&A Advisor?

Mike Ertel, CBI/ M&AMI/ CM&AA

Thousands of small- to medium-sized businesses sell privately every year, so why use a professional M&A Advisor?

There are several reasons, but in my experience most of my clients say they chose me to help them get the best possible result from the years they invested in building their business, while managing the whole process with maximum confidentiality.

An experienced M&A professional can more than earn his fee by improving the price, terms, and ultimately, the net proceeds an owner will realize from selling his business.

Our process begins with analyzing and recasting the company's financial statements. Traditional financial statements for privately held companies – even audited, GAAP statements – are not prepared with the intent to sell the business for the best possible price. Mostly, they are prepared to file tax returns and pay the least amount of income tax.

As an example, one business owner asked me to take over the sale of his business after he had attempted to sell it himself for almost a year. He reported that even after lowering his asking price by a third, his trade journal ads hadn't produced a single offer.

After working with the owner to recast his financial history, then creating fresh marketing materials to show his business in the best possible light, and then exposing his business through blind ads to our network of buyers, within 8 months we successfully closed with a strategic buyer for 50% more than the seller's last asking price. The deal also so included several perks that made the deal even sweeter for this seller.

At Legacy Advisors Group, we're in regular, direct communication with hundreds of qualified & motivated, individual and corporate buyers – both domestic and international – for small- to medium-sized companies. We're experienced in CONFIDENTIALLY finding just the right buyer for your business, negotiating a win-win deal, and getting it closed.

If you know of a business owner who's thinking of selling or buying a business and who might benefit from a free, confidential, consultation with us, have them contact me at: mertel@legacyadvisorsgroup.com

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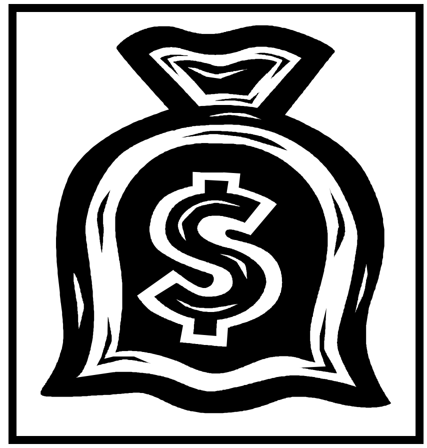

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www.taxplanning.com
www.legacyadvisorsgroup.com

Frequently Asked Questions…

Q: On December 16, 2010, a new tax bill was passed by the House and Senate. What does this mean for dividends and capital gains?

A: Capital Gains and Qualified Dividends tax rates will be spared from going up as the tax cuts created under the Bush Administration were set to expire. The capital gains and dividend tax rate will generally be 15% for 2011. Under the sunset, capital gains were slated to rise to 20%, and dividends were set to go to the ordinary income rate, which for some could have been 39.6%.

Q: As you have discussed in the past, the estate tax law was set to expire as well. Has Congress finally acted?

A: At nearly the last minute, Congress has included in the new tax bill, a provision lifting the estate tax exemption from what was slated to be $1,000,000 to $5,000,000. As well as with the old exemptions, this exemption can be combined with the use of a trust between spouses to result in a combined effort of $10,000,000.

Q: The deduction known as Section 179 has been a central part of tax law in the past decade. Does the new tax law affect Section 179?

A: The new tax bill extends Section 179 deductions of $500,000 into tax years 2011 and 2012 as well. Those looking to invest in new equipment may take an immediate expense of $500,000 on equipment purchased in the year of purchase. This has the beneficial effect of reducing the taxpayer's income substantially.