Legacy M&A ADVISORS LLC

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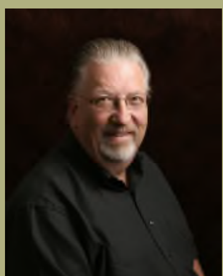

Mike Ertel is a Certified M & A Advisor and a Principal Broker with Legacy M&A Advisors, LLC, a full-service M & A Advisory firm with an office in Tampa, Florida specializing in representing sellers and buyers of small- to mid-sized companies. Prior to joining Legacy M&A Advisors, LLC, Mike's business 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.

Business Appraisal: You Need One

Bart A. Basi, CPA/Attorney at Law
The Center for Financial, Legal & Tax Planning, Inc.

Knowing the value of a business is important to anyone who has an ownership interest in a company. Valuing a business is often overlooked until the last minute. At this point, the business owner realizes how vital a valuation is for making important business decisions. Business valuations play a major role in facilitating the accomplishment of satisfying the objectives of business owners in various situations. Some of the major reasons for getting your business appraised are discussed below.

When a Valuation is Crucial

1) Determine Gift and Estate Taxes: When the owner of a business transfers an interest in a company, either as a gift or at death, the IRS requires a valuation to be done in order to access the proper estate and gift taxes. The objective in the valuation process is to minimize the tax burden.

2) Fair and Enforceable Buy-Sell Agreements: Buy-Sell agreements are used in businesses to provide for liquidating the interest of a withdrawing or deceased shareholder. Under this type of an agreement, it is important for both parties to receive a fair and equitable value.

3) Buying and Selling Shares in a Company: Many times the company or a stockholder may wish to buy or sell some shares. A sound valuation can ensure a semblance of fairness to all parties involved.

4) Implementing an Employee Stock Ownership Plan (ESOP): An ESOP is a form of retirement plan that enables employees to own an interest in a company. This type of ownership is usually established through investing the company's stock into an Employee Stock Ownership Trust (ESOT). When an employee retires or dies, their interest is either paid or transferred to his decedents. The value of the stock must be determined annually for these purposes.

5) When a Shareholder Wants to Dissolve Their Shares in the Company: When a shareholder wants to leave or "disassociate" themselves from the company, the ability to arrive at an equitable price is vital in resolving the issue.

Continued on page 2

A CASE STUDY

Unsubstantiated Expenses

The Tax Court has ruled that deductions claimed, but unsubstantiated were not allowed. The couple owned a trucking business and claimed to keep sufficient records; however the records were lost in a fire.

The IRS was sympathetic and allowed the couple time to recreate the records in order to substantiate the deductions. No such attempt was made and the couple's deductions were lost and penalties were assessed by the IRS.

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CoverStory

6) When a Divorce Occurs: In the event of a divorce, the value of the business itself is required for a property settlement. Sometimes both parties will agree to an independent appraiser. More commonly, however, the parties will each hire their own experts and the matter will either be settled or decided in a court of law.

7) Mergers or Acquisitions: When a company merges with another, the shareholders of the merged company must be paid either cash or stock of the acquiring company. In this situation it is essential for both companies to be valued.

8) Compensatory Damages Cases: In lawsuits involving breach of contract, loss of business opportunity, antitrust, condemnations, or other legal issues, the business appraiser must provide expert testimony to aid the court in reaching a reasonable value to justify any damage awards.

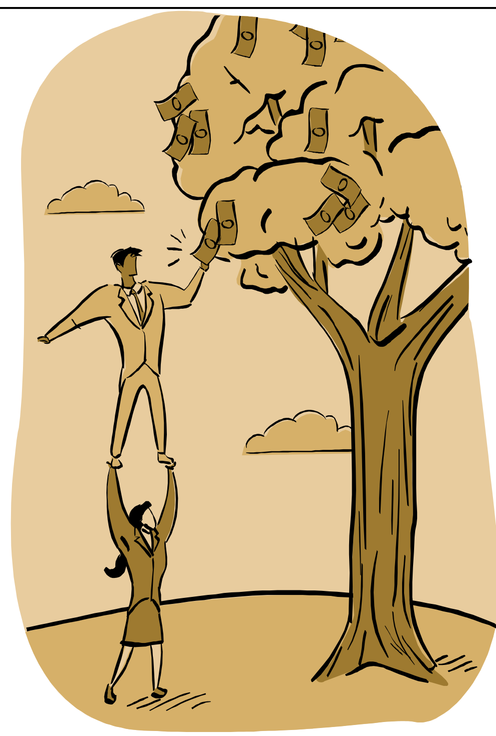
Conclusion

From this discussion, it is easy to see why the need to hire a competent business appraiser is essential. If we wait until after these events occur to determine the worth of a business interest, we put ourselves at a major disadvantage. Knowing the worth of your company can facilitate business decisions, minimize tax burdens, and establish a fair value for many purposes such as a divorce settlement or buyout price. The ability to know your company's worth changes the old cliché from "what you don't know, can't hurt you" to "what you don't know, can hurt you. If you have any questions about having your business valued please feel free to contact Bart, the valuation expert, at The Center for Financial, Legal & Tax Planning, Inc.

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.

Points of Interest

- **Valuing a business is often overlooked until the last minute.**
- **Many times the company or a stockholder may wish to buy or sell some shares. A sound valuation can ensure a semblance of fairness to all parties involved.**
- **Knowing the worth of your company can facilitate business decisions, minimize tax burdens, and establish a fair value for many purposes such as a divorce settlement or buyout price.**



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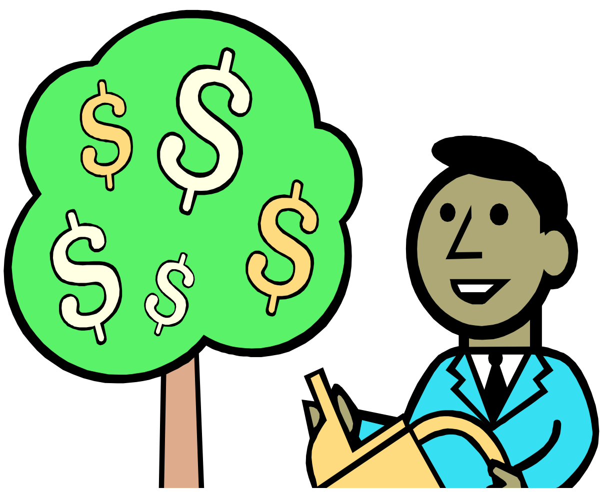
A CASE STUDY CONTINUED:

Editor's Comment:

Record keeping is a very important part of business. Here, it seems as though the couple tried calling the IRS's bluff only to find out that the IRS was not bluffing. If you are under audit, the IRS will not allow a deduction where in fact, the deductions may have been completely legitimate. If the IRS demands records, the worst thing you can do is to not produce any.



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Ten ESOP Fables – Debunked – Part III

This is the third in a series of articles that will attempt to dispel ten common misconceptions, or fables, about ESOPs.

ESOP Fable #4: My employees cannot afford to buy my company.

Another common misconception can be paraphrased as, "How can my employees even consider buying my company...most live paycheck to paycheck." The answer is simple: The employees do not have to pay for the company. The employees do not contribute personal funds, or even provide credit for the transaction. Funding is provided by specialty lending institutions whose focus is solely on funding ESOP buyouts.

Over time, ownership is passed from the ESOP to the employees in the form of a contribution, in exchange for their dedication and loyalty to the company. The longer the employee remains with the company, the larger will be his or her ownership stake. The ESOP is, in essence, a retirement plan, funded by stock in the company.

The motivational aspects of these plans can be extremely powerful for the employees. In fact, most ESOP companies experience lower employee turnover after implementing the plans; and according to several national studies, ESOP companies tend to be 8-12% more profitable than their non-ESOP counterparts.

ESOP Fable #5: An ESOP won't pay me what my company is worth.

Most business owners have ideas of what their companies are worth. And many feel by selling to the employees through an ESOP, they will not realize full value for their shares. The truth is if you sell your company to an ESOP, you will be paid full fair market value. The determination of just what is fair market value will be made by an independent, certified, business valuation analyst. This removes the need to endlessly negotiate the sale price of the shares being sold.

The business valuation profession uses sophisticated yet standardized techniques to determine the fair market value of a business interest. Independence of the valuation analyst is required, which effectively removes any biases in favor of either the buyer or the seller. Therefore, you can be confident you will receive a fair price for your company when selling to an Employee Stock Ownership Plan.

Moreover, by selling your company to an ESOP, you will have the opportunity to fully defer all taxes on the sales proceeds. This means not only will you receive full value for your company, but you will also enjoy powerful tax advantages as a result of selling to an ESOP, which otherwise would not have been available through selling to a third party.

Next month's article will tackle: ESOP Fable #6: ESOPs are new and untested.

As ever, 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 directly.

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Frequently Asked Questions…

Q: I am interested in having my business valued for a number of reasons. Is a valuation done for estate planning purposes effective for other purposes such as financing as well?

A: Generally, you would want to have your valuation reviewed or updated to reflect accurate value to a bank or when using the valuation for other purposes.

Q: I would like to set up a Subchapter S Corporation. How do I do this?

A: You must first file articles of incorporation with your respective state. Once this is done, IRS Form 2553 must be filled out to make the Subchapter S election.

Q: I am the owner of an S Corporation. If in any given year I do not take any money out of the company, will I have to pay taxes on the income from the business?

A: S Corporations are what is known as "flow through entities". If an S Corporation turns a profit, that profit flows through to the owner(s) of the company. Regardless of what distributions or cash the owner takes from the company, the shareholder will see income from the profit of the company.