

SELLING YOUR BUSINESS: A CHECKLIST TO GET YOU THROUGH THE PROCESS

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Selling your business for its best value takes time, teamwork, research, planning, strategy, preparation, networking and commitment. It is a process, not an event. If you have not sold a business before, this article will give you some insight into how the process works and what you can do to maximize your return.

This article has been written from the perspective of the owner/manager of private business with a selling value in excess of \$1,000,000.00. No two situations are exactly the same but hopefully this checklist will give you an idea of the things you need to be thinking about. While the process for smaller deals can be different (usually the agreement of purchase and sale is negotiated and signed in advance of closing instead of using a letter of intent), the basic principles are the same for anyone selling a privately owned business.

Step 1 - Assemble a Team and Define Your Basic Needs

Rule #1: Do not try to sell your business yourself.

- I have an experienced accountant who can help me in the process
- I have an experienced business lawyer with transactions experience
- I have access to an experienced tax advisor
- I have access to a business valuation advisor or significant business valuation expertise
- I have retained or considered retaining a business broker
- I have my key personal advisors on my team
- I have considered and added key people inside my business to the team, as appropriate

Rule #2: Have a clear understanding of why you are selling your business.

- I have prepared a clear and simple statement of why I am looking to sell the business, and what I want to achieve from the transaction
- This has been reviewed by my team and their input has been considered and applied, as appropriate

Step 2 – Research, Analyze and Understand the Business Opportunity You Have to Sell

Rule #3: Have a realistic understanding of what it is you have to sell and how valuable it really is.

Rule #4: Have a good understanding why someone would want to buy your business.

- We have researched and analyzed the industry and identified the key industry trends which will impact my selling the business, both positively and negatively, and they have been recorded

- We have researched and analyzed how the industry fits into the economy, and have recorded how this will impact my selling the business, both positively and negatively
- We have research and analyzed the place of my business within the industry and how this will affect my ability to sell the business, both positively and negatively, including:
 - sustainable competitive advantage, or a strategy to build or maintain one;
 - the company's bargaining power with suppliers and customers;
 - the company's ability to anticipate and ward off competition; and
 - the company's financial performance compared to industry standards
- We have researched and understand how businesses like mine are valued, how these principles apply to my business, and what I can do to increase the perceived value of my business
- We have recast the company's income statement on a normalized sustainable earnings or EBITDA basis, and prepared forecasts along the same lines
- We have recast the company's balance sheet for adjusted book value, and normalized the company's historical and pro forma balance sheets to tie in to the normalized income statements
- We have identified assets or liabilities which should be moved out of the business for selling purposes, and prepared a written plan to accomplish same
- We have prepared a written valuation analysis of my business
- We have prepared a written strategy of how to maximize a purchaser's perception of the value of my business
- We have considered and recorded the characteristics of the ideal purchaser, taking both tangibles and intangibles into account

Step 3 – Look into Basic Housekeeping Matters

Rule #5: Get your house in order.

- We have researched and identified basic tax and financial issues, such as whether I am are better off selling shares or assets; use of retiring allowances; the potential for post-closing consulting revenue
- We a written plan for implementing tax strategies whether I am selling shares or assets
- We have identified how tax structure could affect the purchase price for my business, and recorded those ideas for use in negotiations
- Company minute books, corporate records and financial information are up to date and in good order
- All tax or government returns are completed and filed up to date.
- We have identified and written a plan for dealing with any litigation, contractual or other outstanding legal, tax, banking or financial issues that would slow down or complicate completing a deal
- We have considered how selling or trying to sell the business will impact basic operating issues, and have a written plan for dealing with them, including: key contracts and suppliers;

- key employees and employment contracts; restrictive covenants; customers; competitors; product development and cash flow issues
- We have identified and recorded what key relationships could be strengths or weaknesses in selling the business
 - We have identified the weakness which will be uncovered by a buyer in the due diligence process and have prepared a written plan for dealing with same
 - We have obtained and review a typical purchaser's due diligence request list and have looked at the business from a buyer's perspective

Step 4 – Prepare an Opportunity Plan for Your Business

Rule #6: Plan to sell a business opportunity; not a pile of assets or a set of financial statements.

- We have identify areas in the business which need improvement, and prepared a written plan for dealing with them
- We have identified ways to improve the perceived value of the business, and prepared a written plan for dealing with them
- We have revisited our industry and valuation research results from Step 2
- We have research potential buyers for your business, including competitors, suppliers, customers, investors and others who have a proven interest in the industry or which should consider buying my business because of the potential synergies they could unlock for themselves, prepared a list of such persons and prioritized the list
- We have documented all that we have learned in an Opportunity Plan which we will use in marketing the business for sale, including:
 - a five to fifteen page strategic summary of the business, where it came from where it is at, where it is going; typical headings are Industry Background; Industry Markets & Customers; Industry and Economy Finances - Past, Present and Projected; Company Background; Company Offering - Product/Service; Company Markets and Customers; Company Management and Personnel; Company Plant and Facilities; Company Finances - Past, Present and Projected; and Opportunity Summary – a short narrative of the future for the company, including opportunities still to be exploited, investment that could be made and the impact it would have, and the upside for a potential buyer;
 - the recast financial statements from Step 2; and
 - other information and documentation that supports the vision and plan, especially if it is empirical and objective

Step 5 – Prepare a Marketing Plan for Your Business

Rule #7: Plan to have multiple, enthusiastic buyers for your business.

Rule #8: Do not get attached to a particular price for your business; plan to let the market give you the best idea of what your business is worth.

- We have prepare a confidential and brief outline of what kind of deal I am looking for, without setting an asking price; and decided if I want to sell shares or assets, what my availability is in transition, etc.
- We have prepared a marketing strategy for the sale of the business which will bring multiple enthusiastic buyers to the table
- I have decided whether we will use a broker or an intermediary, and if so, when
- We have a plan around the “rumour mill”
- We have a written criteria for qualifying interested parties, and a method for doing that
- We have developed and documented a roll out plan to approach potential buyers

Step 6 - Prepare and Distribute Preliminary Disclosure Documentation

Remember Rules 7 and 8:

Rule #7: Plan to have multiple, enthusiastic buyers for your business.

Rule #8: Do not get attached to a particular price for your business; plan to let the market give you the best idea of what your business is worth...

- We have a one page, anonymous term sheet that can be widely distributed to potential purchasers, including cold calls, requesting an initial expression of interest
- We have a confidentiality/non-disclosure document for interested buyers to execute before giving them the Opportunity Plan
- We have distributed this information in accordance with the marketing plan
- We have qualified interested parties in accordance with the qualification criteria.
- We have obtain signed confidentiality agreements from interested parties
- We have distributed the Opportunity Plan to qualified parties
- We have solicited their written expression of interest including background on the purchaser, why they are interested in the opportunity, and their preliminary assessments of value; set a time line for their response and let them know there are other interested parties; and also let them know that a short list of interested parties will be invited for a detailed follow up meeting including site visit

Step 7 – Follow Up With the Most Promising Interested Parties: Site Visits

Remember Rules 7 and 8:

Rule #7: Plan to have multiple, enthusiastic buyers for your business.

Rule #8: Do not get attached to a particular price for your business; plan to let the market give you the best idea of what your business is worth.

- We have assembled all the expressions of interest and reviewed them as a team
- We have identified the most promising interested parties, using the characteristics of the ideal purchaser and the expressions of interest.
- We have arranged a series of introduction meetings with the most promising interested parties, including site visits to the business and more detailed presentations on the business opportunity, and asked them to present their business background, financing capability and overall intentions
- We have completed initial site visits
- We have asked the selected parties to submit non-binding term sheets or letters of intent by a fixed deadline, assuming they are interested in proceeding to the next step; we have offered to sign a “lock up” provision with the first choice buyer as selected from the term sheets
- We have not set an asking price for the business; we are letting the market give me a better idea of what the business is worth

Step 8 - The Letter of Intent

- We have review the term sheets and letters of intent as a team, and prioritized my interest in each potential buyer
- We have selected the first choice suitor; let them know they have been chosen; and arranged to put our two teams together to begin negotiating the details and planning the due diligence
- We have committed to exclusivity with this buyer
- We have told the remaining suitors I have committed to try and do a deal with the person who presented the best overall offer, and promised to come back to them if I can not get a deal done with the first suitor
- We have prepared and rehearsed our counterproposal, including specific details, arguments and supporting material, provided it in a short written form to the potential buyer in time for them to review it before the team meeting
- Both sides have presented their analysis and propositions, and begun negotiations, at a meeting attended by all the members of each team
- We have finalized and signed the final letter of intent, including all major business issues

Step 9 - Due Diligence and Negotiation of Legal Agreements

- The purchaser has delivered its list of disclosure requirements
- We have provided all the items on the purchaser’s list
- We have received and reviewed the purchaser’s first draft of the purchase agreement and closing agenda
- The purchaser has provided a list of additional items to disclose
- We have provided those additional items
- We have provided our response to the draft agreement

- We have begun prepared draft schedules for the definitive agreement and provided them to the purchaser's team
- We have finalized the agreement, principal contracts and closing agenda
- We have finalized and delivered the schedules
- Third party consents have been obtained
- All conditions have been waived
- We have scheduled the final closing
- We have made any pre-closing announcements or introductions that are required
- We have a plan to make post-closing announcements and introductions, as are required

Step 10 – Closing

- Everything is signed
- Funds and related documents are exchanged
- A list of outstanding items and time line for satisfying them has been agreed to and circulated in writing
- Post-closing announcements and introductions have been made