Preliminary Guide: Preparing for the Sale of Your Business

DAK
THE MID-MARKET, MAXIMIZED

You have invested years of your life building a successful business. When the time comes to sell that business, you'll want to get the greatest possible value in return for all those years of hard work.

How well you prepare your business for sale will make all the difference in its perceived value in the marketplace.

Please use this preliminary guide as a starting point to begin gathering information, assessing your situation, updating or making changes that will bring you the greatest value down the road.

1. ASSEMBLE YOUR A-TEAM

You probably have never sold a business before, and this could be one of the biggest financial decisions of your life, it is no time to learn on the fly. Assemble the right team of experienced advisors to assist you and avoid costly mistakes. A seasoned team of professionals will be your best asset, and assure you get it right!

- Attorney – M&A, tax, IP, environmental, labor, real estate
- Accountant
- Investment banker
- CFO, HR Director, other key employees

2. TAX / ESTATE PLANNING

The true value of a transaction lies in its after-tax yield. It is important that your transaction be structured in a tax efficient manner. The longer the lead time to prepare, the more tax efficient your deal can become.

- Examine your corporate structure to save state income taxes
- Consider 1031 exchange – swapping properties of like kind to avoid capital gains taxes
- Create trusts, etc. for holding the proceeds
- Consider gifting to the next generation to reduce the tax burden
- Drop down assets/business line to be sold into wholly owned LLC and then sell membership interests of LLC

3. PREPARE SUPPORTABLE FINANCIAL STATEMENTS

Potential buyers must have absolute confidence in the accuracy and veracity of the financial picture you provide. The quality of your financials will be key to solidifying the transactions. These are some of the areas you need to review:

- Audited statements
- Normalized statements
- Recent inventory count/issues
- Revenue Recognition
- Quality of Earnings
- EBITDA Calculation
- Budget/Plan
- KPIs

4. EMPLOYEE CONSIDERATION

Employees are a key component in any transaction and an area of risk for a buyer. Mitigate that risk by locking in key employees and ensuring any areas for potential employee discontent are looked at:

- NDAs, Non-Competes
- Employment agreements
- Work for hire if IP involved
- Handbook/benefits
- Pension matters
- Unions - Withdrawal liability
- Outstanding severance arrangements
- Workforce compliance
- Retention and transaction bonus

5. SAFEGUARD YOUR INTELLECTUAL PROPERTY

Intellectual property is a valuable asset to your company and could be one of the key value drivers of a transaction. Be sure that it is protected and that you have the documentation to prove it readily available for perspective buyers to review.

- All owned by/assigned to Company
- Any trademarks, patents, etc. that need to be filed
- License agreements for third party IP/software
- Any data breaches? Proper protections in place? Disaster plan?

6. REVIEW AGREEMENTS: SHAREHOLDER / OPERATING / PARTNERSHIP

You may have long-term relationships with organizations and individuals in various capacities. When you sell your business, there are many aspects to consider about how these relationships will carry over to the new owner.

- Documented correctly
- Rights of first refusal/Waivers needed
- Drag along rights
- Review approvals required
- Customer and Supplier Agreements

"Run your business like you will own it forever but be prepared to sell it tomorrow."

7. SELF DUE DILIGENCE

Serious buyers will perform extensive due diligence prior to consummating a transaction. Any surprises will have serious potential to negatively impact the transaction. To avoid surprises, conduct due diligence on your own company prior to bringing your business to market. Identify every issue that may be perceived as a negative and eliminate or mitigate problems before you begin the divestiture process. Here are some of the areas to review:

Governance
- Minute books up to date
- Stock certificates issued, correct? Located?

Banking/Lending Relationship
- Indebtedness
- Prepayment penalties
- Joint with non-seller entities - Need to separate out/allocate
- Cross-default with other debt

Real Estate
- Owned? Selling? Separate entity?
- Leased? Extend term?
- Environmental matters – existing Phase I, USTs, clean up, mold?
- Title and Survey available

Contracts
- Consents required for asset sale/merger/change of control
- High concentration with any customer or vendor?
- Written contracts with top customers and vendors?
- Most favored nations provisions?
- Noncompete/non-solicitation provisions?
- Price escalation provisions for customers?
- Longer than 1 year?

Assets/Inventory
- Capital and operating leases?
- Consignment/warehouses
- Title/leases to trucks/cars - with Company?
- Quality of inventory
- Obsolesce reserve

Litigation
- Pending or threatened?
- Any need to resolve before sale?

Insurance
- Proper coverage amounts?
- Transferrable – change of control?
- Insurance loss runs

Permits/Licenses
- Assignable?

Taxes
- State taxes, sales and use taxes – where file?

Strategic Plan
- Mission, Vision, Goals & Objectives
- SWOT Analysis
- Competitive Advantage, Market Share
- Resource Alignment

DAK's Transactional Value Index

Buyers will base their valuation of your business on many factors. Grade yourself on 9 of the most critical.

	Least Favorable ⟷ Most Favorable				
Sales Trends	1	2	3	4	5
Profitability – Recasting	1	2	3	4	5
Balance Sheet Strength	1	2	3	4	5
Product Differentiation	1	2	3	4	5
Depth of Management	1	2	3	4	5
Customer Concentration	1	2	3	4	5
Supplier Dependency	1	2	3	4	5
Sustainable-Adaptable Model	1	2	3	4	5
Deal Killers	1	2	3	4	5