ROCHESTER
BUSINESS JOURNAL

Part of the BRIDGETOWER MEDIA network ■ MAY 23, 2024

Putting off succession planning could mean settling for less in the end

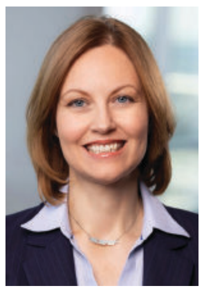
■ CAURIE PUTNAM

Almost three-quarters of privately held companies in the U.S. plan to transition ownership within the next decade, according to the Exit Planning Institute's 2023 National State of Owner Readiness Report, released in March 2024.

How should these and other organizations determine what the best kind of succession plan is for them and when should they begin the process? We spoke to four local professionals to find out.

"Don't make succession planning the lowest thing on your priority list," said Kelly E. Marks, a corporate and tax attorney who is a partner with Phillips Lytle LLP. "If the business is meaningful to you, if it is meaningful to your employees and if it is meaningful to your family, stay on top of the planning and don't procrastinate."

She says, acknowledging that business owners are incredibly busy in the day-to-day operations of the organization, that it's important to remember that cir-


Kelly E. Marks

cumstances can change — sometimes abruptly — and that there are always events outside of one's control.

"If you didn't get to your planning, then you may be in a position to not transfer the business in the way that you wanted to," said Marks, who notes a succession plan can take many different paths, including — but not limited to — selling to a third party, gifting to the next generation, or transitioning to a private foundation.

The decision on which way to go is highly individualized for each business, but corporate and tax attorneys can be an important part of the team to help get the conversation started and continue the process, along with accountants, financial planners, investment bankers and estate planning attorneys.

When it comes to making the decision, "It really boils down to the personal goals of the business owner and the mission for the business going forward," said David Dinolfo, CPA, a partner at The Bonadio Group and a member of the Investment Banking and Transaction Advisory teams.

Dinolfo notes that external buyers will generally pay a higher price than internal buyers, so if price is important to a business owner, they're most likely going to get the best or highest price by testing the open market.


David Dinolfo

"If you're a business owner who says, 'I've taken this business as far as I can, I'm tired and I'm ready to retire, but I think if it's in the right hands, it can really take off,' usually those right hands are an external buyer who has the firepower and the ability to scale and expand markets," Dinolfo said. "If growth and expansion is one of the more desired things for a seller, an external buyer is usually the best fit."

If things like company culture and continued performance in the way the business has historically performed are most important to a seller, an internal sale may be more attractive, said Dinolfo, who added that an internal sale may also work well for a business owner looking to slowly exit.

When talking to an internal buyer or team of buyers, Dinolfo says business owners should consider whether that person or team has the financial wherewithal to make the purchase.

"If the answer to that is yes, it's probably going to be financed and paid over time," Dinolfo said. "It's unlikely that the seller is going to be able to cash a check at closing and be done."

Russell D'Alba, CPA, the founder, president and managing director of Paramax Corporation, an investment banking firm, says most often business owners looking to exit are focused on optimizing the selling price.


Russell D'Alba

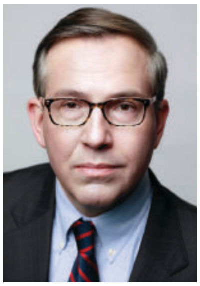
"When they call us for advice, they usually start with 'My goal is to sell the business for the highest number I can possibly get to someone reliable or a group of people or a private equity fund that's reliable,'" he said. "And I usually then say to them, 'How important is maximizing or optimizing the selling price?' Nine out of ten times, they say that is the number one goal."

D'Alba says when planning for an optimized sale of a closely held business, different scenarios he presents to sellers not looking to keep the business in the family include: a sale to a strategic buyer using a competitive process; a sale to a strategic buyer in response to a single strategic buyer's inquiry; a sale to a financial buyer; a sale to insiders; and sale to an Employee Stock Ownership Plan (ESOP).

If an owner is not sure which way they want to go, D'Alba says it begins with him and his team being good listeners and going through an extensive interviewing process to understand the client's goals and their timing. He says each business and industry is different and requires a highly customized approach.

"Our experience has been (that) a seller who is well prepared to go to market, and who uses an investment bank that runs a competitive process where there are multiple bidders, will find the best bidder won't necessarily be the highest bidder," D'Alba said. "The best bidder sometimes is the number two price, but they might bring other things to the table that cause the seller to feel more comfortable."

Charles E. Telford III, a partner with Lippes Mathias LLP whose roles include being part of the Trusts & Estates team, says estate planning is an important part of a business's exit strategy and that it's never too soon to prepare.


Charles E. Telford III

"Every step of the way, whether you're at the beginning, the middle, or the end, a responsible business owner is always thinking about what the exit strategy is for the business because there is some inevitability to it," Telford said.

He notes that even if it is not a desirable topic to think about, it's important for business owners of all ages to plan for what will happen to the business should they have a health calamity or die.

"Most of the time, these things are long-term projects," Telford said. "You try to plan for the here and now, as best you can, and you try to anticipate as many reasonably foreseeable logical outcomes as you possibly can."

For business owners that have not done estate planning yet or need to revisit it, Telford said it's a particularly good time being that it's a Presidential election year, which means the tax laws could change significantly post-election regardless of who wins.