

## New Business Considerations

Buy a Business or Start Up - Buying and selling businesses is not for the weak or timid. Protect yourself:

- Liabilities of a purchased business
- Financial Impact (purchased business may cash flow sooner)
- Payment terms
- Representations and warranties that carry personal risk
- Due diligence
- Letters of Intent
- Transition planning
- Taxes

### Budget & Business Plan & Marketing Plan

- Plan for more expenses than you think
- Plan for less income than you think
- Financing - Bank or Credit Card Backup / Line of Credit
- Paying Bills / Collecting Receivables
- Website
- Ordering Inventory / Supplies
- Business Processes

### Form an entity to protect you from liability

- Often initially an LLC or “S” corporation (whether one owner or more than one)
- Similar taxation concepts but different structure
- Special language in the Articles if a professional company
- Setting up the next office/activity in a separate entity
- Liability protection only works if you really treat it as a company
- Liability protection is overridden when you give a personal guarantee
- Liability protection may be overridden if you are personally involved
- Company Name / Trade name
  - Internet Search
  - US Patent and Trademark Office
  - Colorado Secretary of State
  - Other
- Business Licenses (state, county)

Intellectual Property – Protecting your business’ most valuable asset – its reputation, as evidenced by:

- Name – corporate and tradenames
- Logos, trademarks and services marks
  - Federal protection
  - State protection
  - Common law
- Copyrights
- Patents
- Licensing
  - Beware of inadvertently becoming a franchisor

More than one owner? – When you have more than one owner, it is a marriage:

- How decisions are made
- Sharing Money / Expenses
- Expectations differ when both active and investor owners
- Buy-Sell Agreement – Just in case things don’t work out:
  - What happens if one of the owners dies or becomes disabled?
  - What happens if one of the owners quits or is fired? Can an owner be fired?
  - What happens if the owners do not get along?
  - What happens if an owner wants to sell their stock to someone else?
  - What happens if an owner loses their stock in bankruptcy or divorce?
  - Dealing with personal guarantees on departure
  - Funding the buy-out

Identifying and Achieving your End Goal - Although it is tempting to stay busy in the business, every business owner needs to know where they are heading, from the day you start. Satisfaction and success only come with a lot of pre-planning:

- How long do you plan to stay as busy in the business as you are today?
- If you plan to “slow down”, what does that mean?
- If you plan to sell, who (or what type of person) is your potential buyer?
- A business that is “all about you” has is a great job but may have little value in the end.
- What can you do to achieve your end goal?

Employment Matters - Employees are the joy and the bane of every business owner’s existence. Take proactive steps as well as having the proper reactions:

- Personnel Manuals
- Confidentiality of Business Information and Trade Secrets
- Employee v. Independent Contractor Status
- Hiring
- Employee Reviews and Reprimands
- Terminations
- Non-competition Agreements
- The Mundane and Very Important Details
  - Payroll
  - Workers' Compensation
  - Unemployment Compensation
  - Health Insurance
  - Other Benefits
  - Consider use of a payroll service or Professional Employer Organization (PEO)

Growing Your Business with a Key Employee Team - If your plan involves not having to be “on” 24/7, having time to take a vacation, and/or having a business that is more than just a great job; consider:

- What type of key employees will help you achieve your goals
- How do you attract and retain them
- Giving up sole control; training
- Key employee bonus incentive plans
- The pros and cons of key employee ownership

Office Lease - Some think that it is “just a lease”. Others think that every lease is the same so no negotiation is needed --- not so:

- Rent terms
- Consent not to be unreasonably withheld
- Personal Guarantee – limited?
- Ability to sublet or assign

Equipment – Should you buy or lease?

- Buy (financing, “capital lease”)
- Lease (see also Office Lease above)

Insurance – Insurance is designed to protect you from disaster:

- Check carefully for what is covered
- Riders may be available

- Types of insurance
  - General Business Insurance
  - Malpractice Insurance (if applicable)
    - Claims Made v. Occurrences Policy
  - Business Overhead Insurance
  - Disability Income Insurance
  - Life Insurance

For further information, please contact:

Barbara J. Wells  
650 S. Cherry St., Suite 1100  
Denver, CO 80246  
[bwells@minorbrown.com](mailto:bwells@minorbrown.com)  
303-320-1053  
[www.minorbrown.com](http://www.minorbrown.com)

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