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## Preparing your business for sale: There's no time like the present!

It has been widely publicised that a significant number of businesses may swamp the market in the coming years as baby-boomers look to sell their businesses. This increased supply is likely to make selling your business more difficult than it may have been in the past. Perhaps more than ever before it will be important that businesses are well presented for sale.



The following are four practical suggestions to enable you to start preparing your business for sale in today's environment.

**Prepare a formal succession plan** - before you can determine what sort of preparation or 'grooming' your business requires it is important to clearly establish your succession plan and exit strategy. If your succession plan involves a progressive sell-down to key employees then an important consideration might be to establish a strong shareholders agreement. By contrast, if your exit plan involves a complete sale then a shareholders agreement may be unnecessary. A formal succession planning document should include:

- your goals and objectives
- intended exit strategy (include a 'Plan B')
- indicative timeframes – this will enable you to tailor and plan your sale preparation initiatives accordingly

**Obtain a valuation** - a valuation of your business at this stage might seem premature, however, a formal business valuation prepared by a credible

valuer will likely form a key part of your succession plan. Amongst other things, a business valuation will:

- enable you to assess whether your lifestyle goals and objectives will be met by the sale of your business, and
- identify the key drivers of value in your business which will provide an important focus for your business grooming initiatives and identify areas where you can improve value.

Business valuation is a specialist area. It is important to ensure that the valuer you choose has the appropriate expertise and experience.

**Document key business processes** - any potential purchaser will consider the ongoing assistance they are likely to require from you as vendor to operate the business going forward. Well documented business processes will minimise the required 'handover period' and will also maximise the conversion of 'personal goodwill' to 'business goodwill'. As a bonus, well documented business processes will also aid the induction and training of new employees.

## GST refunds

The IRD screens GST returns filed by taxpayers to determine if a review or investigation of that return is warranted. This is likely to occur where a taxpayer claims a GST refund that is higher than normal based on that taxpayer's GST return filing history or where a first GST return is filed claiming a GST refund.

The legislation requires that where the IRD does not investigate a GST refund or request information from the taxpayer, the IRD must release that refund within 15 working days of the IRD receiving that return. If for instance, the refund is higher than normal and no information is sent by the taxpayer to the IRD to support the GST return, an IRD investigation will invariably arise and involve a request for information from the taxpayer.

The High Court in *Contract Pacific v CIR* has recently confirmed that where the IRD commences an investigation and requests information from the taxpayer the refund must be released if the request for information is not made within 15 working days after the return is received by the IRD.

**Clean up the financials** - one of the most important sets of documents upon which a potential purchaser will base their decision is your business's financial statements. Not only might these determine whether or not a sale takes place at all, but they will also have a significant bearing on the value you are likely to realise. It is essential therefore to ensure that your business's financial statements are as 'clean' as possible, which will include:

- ensuring any personal expenditure is not included within the Company's accounts
- paying 'fair market' salaries to shareholders and family members, and
- paying 'fair market' rents for premises owned by associated persons.

The process of preparing a business for sale is unfortunately something most business owners do not consider until it is far too late. By the time your business is placed for sale there are a limited number options for improving its value. By contrast, good planning and preparation now will ensure you extract maximum value when you decide it is time to exit.



If a request for information is made within the 15 working day timeframe and the IRD requires further information, requests for that further information must be made within 15 working days from the time the IRD received the last submission of information. If however the IRD were to make a request for further information after the 15 working day period is up, they must then release the refund.

In the event the IRD requests information and the IRD satisfies the 15 working day timeframe requirement, there is no legislated time limit for when a refund must be released. However, administrative law principles require a refund to be processed within a reasonable timeframe.

The value for taxpayers in this decision stems from the requirement that the IRD must progress its investigations in a timely manner. If delays occur and a request for information is then made after the 15 day timeframe the IRD will have to release the refund. It should be noted that the release of the refund is subject to the taxpayer's remaining tax obligations being satisfied and the IRD could continue to investigate and dispute the validity of the refund after its release.

## The Northland Business Expo, 17 – 18 April 2009

The team at Plus wish to thank all those that came and supported us at the Business expo this year. It was an opportunity to actively promote and celebrate our business brand, what we do, and see what other Northland businesses have to offer.

We had a prize draw for new clients that signed up over these days, and also a prize draw for

our existing clients. The prize draw will be drawn very soon.

Attached is an article which we invite you to read.

If you would like to talk to us about anything in the articles please give us a call.

## Snippets

### Making the most of the changes

The Government's relief package for small to medium sized businesses includes a new provision which provides beneficial treatment for legal expenses. Under the general deductibility provisions of the Income Tax Act, if an expense is of a capital nature it is non-deductible. The process of analysing expenses to determine if they are of a capital nature can be complicated and time consuming. Legal fees are often reviewed for this purpose as legal services are often required for transactions that are of a capital nature, such as the acquisition of a building.

The new legislation provides that in deriving income or running a business, where a taxpayer incurs legal fees of \$10,000 or less in a tax year, the legal fees will be deductible irrespective of whether they are capital in nature. However, it is important to note that if more than \$10,000 of legal fees are incurred the whole amount will be subject to the capital limitation and require analysis to confirm deductibility. The definition of legal services is tied to the definition under the Lawyers and Conveyancers Act 2006, which is very wide and is likely to cover most types of services. A further requirement is that the services be provided by a person holding a practising certificate issued by the NZ Law Society or an Australian equivalent.

A practical method of applying the provision is to monitor legal expenditure and where possible request that your lawyer defers further services until the following tax year.

### Use-of-money interest (UOMI)

From 1 March 2009, the UOMI rate for underpayments of tax to IRD fell from 14.24% to 9.73% and the rate for overpayments of tax fell from 6.66% to 4.23%.



### Budget 2009

Bill English has just released his first budget. The forecast side paints a grim picture, forecasting continual drops in economic output, continued Government deficits and almost tripling of unemployment.

Given that kind of forecasting any Finance Minister delivering a budget is faced with what we would describe as an impossible task.

As I am sure we all know by now, the tax cuts that were promised in the 2008 election have been "deferred", but given nine years expected deficits it is highly unlikely they will ever see the light of day.

The superannuation fund contributions have been deferred until 2020/21.

Our read on both of these issues was that they were inevitable and were well flagged before the budget was even read to the House.

As any accountant will tell you to cut your income when you are running deficits and to save money by borrowing it first are simply not sensible ideas so from a "what is best for the nation" point of view these are both very logical practical steps.

There has been some reprioritisation of spending, no doubt influenced in some areas by coalition partners, but certainly no big "spend up" which again given the expected deficits already is hardly surprising.

I am pleased to note the international standard rating agency "Standard and Poors" have already stated they will not be downgrading New Zealand's international credit rating and, in fact, have stabilised their view of our economy. What may not have been apparent through the media to many of us was a downgrade on our international credit rating, as well as costing the Government more money in interest, would almost have certainly flowed through to the rest of us in terms of our mortgage rates. It is very pleasing to note this has been avoided.