

10 Key Considerations When Buying a Small Business

Buying a small business can be an attractive alternative to starting a business from the ground up. The basic business infrastructure (supply lines, customer base, physical location etc.) is already in place, which greatly reduces the logistics involved in starting a business. Additionally, the business will have a quantifiable track record, thereby reducing the risk normally associated with starting a small business. Despite the many advantages of buying an existing small business, there are many traps for the unwary. The following list of considerations is not intended to be exhaustive, and its not a substitute for your own due diligence and the help of an experienced professional(s).

Valuation

It is imperative to accurately value the business. Paying too much can lead to failure of the business. Emotions can run high when considering the prospect of being your own boss in a business that you enjoy. There are many formulas for calculating the value of a business, and frequently a seller and buyer will disagree on this topic. One significant distinction when considering valuation is the value of the business as an "owner" or as an "owner/operator". You must also review and interpret all available financial data (e.g. profit and loss statements, tax records). For this, you may need the assistance of a C.P.A and/or an Attorney is indispensable.

Tax Issues

Consider all tax aspects involved with the purchase and operation of the business. In particular, if stock is being purchased, check the depreciable basis of company assets.

Insurance

Consider the necessary insurance for the type of business your are purchasing. It is possible that the current owner does not have all the necessary insurance. The failure to obtain appropriate insurance can be a costly oversight and additional insurance can be a significant cost.

Third Parties

Establish what third-party consents are necessary or desirable to complete the transaction. This is especially true with respect to leases. Many leases have clauses which prevent the lease from being assigned and/or require the consent of the landlord for purposes of assignment.

Employees

If any of the seller's employees will become your employees, then establish what, if any, of the seller's obligations to these employees will become your responsibility.

Licenses & Permits

Consider what licenses and permits are required to operate the business and independently confirm your ability to transfer or obtain them PRIOR to purchasing the business. You must also determine if it is necessary to comply with any federal or state securities laws.

Competition

If the business being purchased could be negatively affected by competition from the seller starting a similar business, then consider obtaining a covenant not to compete which prohibits the seller from competing with your newly acquired business.

Business Entity

Consider whether the current choice of business entity is appropriate for you. If the business is not already incorporated, consider whether it should be.

Property

If the business purchase contemplates buying or leasing real property (land), be sure to check local, state and federal regulations regarding the ability to use the property for its intended purpose. Environmental regulations have become ubiquitous and can present significant issues (fines) if violated.

Contract for Sale

The contract of sale should be carefully analyzed to ensure that all the necessary terms of the deal are addressed. In this regard, there is no substitute for an experienced Attorney. Errors and omissions in the contract can lead to expensive litigation at best, and problems which undermine the entire viability of the business at worst.

The prospect of buying your dream business in your dream town and being your own boss can be very enticing and ultimately profitable. However, there are many important considerations to be made and the proverbial "devil is in the details".



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