Considerations
for the Sale of a Family Business

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"Plan Your Sale" Strategy and Family Dynamics of Increased Wealth

As you consider potentially selling your family company, there are numerous business, structure, tax and family issues to consider. Many private companies, often times decades or more old, are the largest asset in the family and important to numerous generations of the extended family. We have divided the issues into two categories based on whether they deal primarily with the sale of the business or the impact of the sale and its aftermath on the family. For this exercise, Diversified Trust assumes that the company's valuation is known and acceptable. Diversified Trust recommends carefully reviewing each of these areas with a qualified advisor to properly prepare the family for after the sale.

Company Sale & Estate Planning Issues

1) Assess pre-sale estate planning for transfer of company stock to next generation, and ensure these strategies are properly enacted before the sale closes, as prudent wealth transfer strategies can significantly reduce future estate taxes. Examples of various strategies are Intrafamily Note Purchase Agreements, Grantor Retained Annuity Trusts, Generation Skipping Trusts and Intentionally Defective Grantor Trusts.

2) Consult CPA and/or tax attorney to ascertain whether the sale will qualify for special tax treatment, as different types of company shares may qualify for different tax rates.

3) If sale proceeds are to be paid out over a period of years through an installment sale, verify through your CPA the relevant installment sale rules and reporting requirements.

4) If trusts are created for the company sale, carefully select Trustees and Successor Trustees to ensure that the individual trustees and/or corporate trustees are capable of properly managing the resulting assets.

5) If sale proceeds will be partially or fully in stock of the acquiring company, consider various investment diversification techniques to mitigate credit and investment risk of the acquiring company.

6) Consult CPA to calculate income and capital gains taxes and prepare a cash management strategy to adequately fund the impending tax payments.

7) Consider charitable giving timing for the year of the company sale to maximize deductions efficiency, or consider grantor charitable trust options.

8) Consult your CPA regarding whether tax loss harvesting from other family assets is advantageous for tax efficiency purposes.

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Family Dynamics Issues

1) Consider your willingness to remain in the business: Should you stay in the business during the transition period? What will happen to family members who are currently employed?

2) Consider the emotional impact and family dynamics of increased liquid wealth on all family members, particularly on the children, and establish a plan to educate and prepare them for future responsibilities of this increased wealth. This also includes emotional 'loss of control' issues for the selling CEO of the company.

3) The visibility, liquidity and control of your wealth will likely take on new dimensions, some positive and some negative, as you sell a hard-to-value private company and then have liquid, public asset investment portfolios.

4) Review routine family estate planning documents such as wills and trusts to ascertain that they mirror the family's increase in liquid wealth and protect these assets for future generations from potential divorce, creditors, etc.

5) If a family member is trustee of another family member's trust, determine whether the family member trustee is aware of trustee legal liabilities, responsibilities and family dynamics issues that often arise in intra-family trustee arrangements.

6) Consider family personal privacy and confidentiality issues, such as removing family names from public records for investment holdings and realty. Trusts and LLCs can be created or re-named for personal privacy purposes.

7) Consider increased umbrella insurance coverage, re-assess the family's liability exposures and consider paying down or restructuring loans, mortgages and liabilities.

8) Update basic family financial planning for balanced, long-term investing and additional expenses for lifestyle changes. This will likely correspond with a reduction in earned income and increase in investment income.

9) Determine whether lifetime gifting of assets and utilizing the unified credit for the next generation is prudent under your updated financial plan.

10) Consider increasing security systems for personal residences and held-at-home collectibles, including hidden vaults or safe deposit boxes at a local bank.

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