

## Essential Steps to Sell Your Business

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**Sarah Sawyer:** Welcome to this week's OK at Work with myself, Sarah Sawyer, my colleague Russell Berger, both attorneys at Offit Kurman, and today we are talking about selling your business.

A lot of our clients, obviously always buying, selling businesses and both might be familiar with the due diligence process, which means, taking a look at the business and seeing, when you're going to buy something. Well, let's see what kind of shape it's in, what kind of risk there is, what are the other considerations?

A lot goes into that, but one thing to keep in mind, leading up to that is, if you are going to sell your business, is it in good shape? And are you well positioned to sell it? So what are some things that business owners should be considering when they're asking themselves that question, Russell?

**Russell Berger:** Yeah. So just as a overall starting point. Think of it as a long runway. You don't want to necessarily be in the position where you decide you're going to sell and you're trying to do it three months later. It doesn't give you a lot of time to [00:01:00] correct, adjust, adapt, catch up.

Not that it doesn't happen, but it makes it harder. And that might be reflected in a purchase price, which is ultimately, one of you're really going to care about it in a transaction. So, number one, start early. Give it plenty of time. Number two, a good place to start is just with your general business operations.

Are we doing things the right way? Our corporate compliance is that in order, do we have all that buttoned up? Same thing, you just go down the list. Are our contracts with customers in good shape? Are they protected? Have we done the right things on the employment side?

Are we compliant? Do we have the right restrictive covenants in place so that if someone comes in and buy this business, they're not worried about employees running out the door. These are all things that we would say generally are a good thing for a business to do, a checkup on once a year as well.

So it's nothing really that wild or that specific to a transaction. I think you start by, are we running a tight ship? Can we be more efficient? Are we doing the things we're supposed to do from a compliance perspective? As well as from creating the right foundation [00:02:00] to grow our business on.

**Sarah Sawyer:** One thing that I've found too, that people don't always think about is , what does the ownership of my assets look like as well? And a lot of times you think about assets as a truck, equipment, a building you own like widgets, whatever it might be. But there's also other types of assets, like, IP assets like your brand.

So that's something that might be a little more cumbersome than some of the things that we're describing initially here, but do you own your IP? Do you own your brand? Have you trademarked things that you need, that you might be transferring? Like those types of things as well, which maybe people don't think about quite as much.

And we find this come up also in the restrictive covenants and employment agreements, well, that could be true depending on what type of business you have as well. What kind of work for hire

language you have in those contracts? Have the things that people have been creating for the business going to transfer appropriately to the next business.

A lot of it's going to depend, obviously, on the type of business and what's your selling and what the commodity is and what goes along with that and the deal structures. They get up and [00:03:00] running. You start out small and then all of a sudden you grow and maybe these are things you hadn't thought about when you first started out, or you didn't want to spend the money on it, you didn't want to spend the money on getting that great agreement with the work for hire language and all of that in it.

You didn't want to, trademark right away. And, cleaning some of those things up, once you've gotten to that point and make sure that you have everything.

**Russell Berger:** Yeah. And I'll add to that list too is that every deal is heavily impacted by taxes.

Developing a tax strategy and planning for that is a very important step in this process as well. Some things are done, as you approach closing and you don't have to do them years in advance. But other things, from, are we the right structure to residency?

What states are we in? Am I in the right county? There are all sorts of tax implications that can be floating around out there. And so these are, good questions to ask to the accountant, ask to the tax attorney. What should I know? You know my business. What should I be doing differently if I'm preparing for a sale from a tax standpoint?

**Sarah Sawyer:** Yeah, and that's a great one. Especially because there [00:04:00] could be some lead time on that, as you mentioned. Well, thanks Russell, and we'll see you next time.

**Russell Berger:** Thanks, Sarah.