STRATEGIC ADVISORS

The Exit Strategies Newsletter

WILL YOUR EXIT PLAN BE "FAIR" TO OTHERS? PRESIDENT OBAMA'S POLITICAL AGENDA AND ITS IMPACT ON YOUR EXIT

These days it is very difficult to avoid the politically heated Republican debates as the Presidential election year is now in full swing. Accompanying the Republican feuds is President Obama's recent State of the Union address which focused on the central theme of economic 'fairness'. It is not hard to intuit that 'fairness' is equivalent to 'higher taxes'. And, as is well know in election year politics, the President's State of the Union address is a blueprint for the talking points heading into the Presidential election this Fall. Therefore, knowing that the President's focus on 'fairness' as his major theme, we ask whether or not your exit plan will be 'fair' to others? Moreover, will your idea of 'fairness' square with the future direction of politics and the potential tax burdens that you may face as an exiting owner?

'Fairness' is Code for Higher Taxes

It seems clear to many casual observers that one of the primary benefits of this Presidential election year is the clear difference in the agendas that each party promotes in their talks. We'll leave aside for now the actual ability to get anything accomplished in a divided Congress. Rather, we'll focus on the direction that the political talks are heading in. Narrowing this discussion down to the size of the check [or wire transfer] that you will send to Washington D.C. after you receive the exit proceeds from your transaction, we have one (1) party that believes that you should keep more of your exit proceeds and another political party that believes that it is 'fair' for you to keep less of those exit proceeds.

A Lack of Sympathy for the Exiting Owner

Of the countless groups of constituents that are represented in Congress, it is striking that few if any talk revolves around the plight of the exiting owner. Given the state of our current economy and the impact that small and medium size businesses have proven to have over job creation and gross domestic product for the United States, it would seem logical that a lobbying group would take up the cause of exiting owners and incentivize successful exit planning and transactions to help assure that jobs continue to be created and small businesses continue to prosper. Sadly, that does not seem to be the case. Rather, the political winds seem to be blowing in the general direction of 'fairness', the central part of which is assessing larger – i.e. more 'fair' – tax on the proceeds from your exit transaction. It truly appears as though after countless battles to clear the odds of surviving with your small business, coupled with navigating your business through this Great Recession, exiting owners may now be losing the battle to keep more of what they earned in their illiquid businesses because 'it is not fair' to others.

Will Your Exit Proceeds Meet Your Goals – A Tough Measurement

In order to be best prepared for understanding if your exit proceeds will satisfy your personal goals, you need to begin with defining those goals. This can be as simple as listing your [after-tax] monthly expenses and determining your personal sources of income to meet those future expenses. It is likely that your exit proceeds are required to meet your post-exit lifestyle. Therefore, the next step is to determine how your 'value gap' will be closed with your exit.

In order to estimate what you might get and keep from your exit transaction you must begin with the value of your company. The process of determining a business value begins with a forecast of future profit and an explanation of the risk of achieving those profits for a future owner. You also should try to identify a person or entity willing to own and run your business into the future – i.e. someone who would highly value those future profits and can be relied upon to pay you for 'owning' this future benefit. Once you have decided what you will get paid and when you will receive it, you also need to measure / estimate the tax rates that will apply to these proceeds.

It is on this final point that we focus your attention. You see, if you have done all of the following steps properly, you are now in a position to measure how much of what you keep from your exit. So we ask the question of 'what is fair'? After the November Presidential election, will this measurement of 'fair' change? And, if it does change, will you be prepared with some confident forecasts to assess whether what the government thinks is a fair amount for you to keep will meet your personal goals.

'Fairness' Truly is a Relative Concept

Having read this far in this newsletter, you may be thinking that 'fairness' truly is a relative concept. In other words, what one person (or political party) believes is 'fair' may vary substantially from what you think is 'fair' after a lifetime of business success, making a complex exit decision and navigating a complex [and likely expensive] exit transaction.

Concluding Thoughts

Presidential Candidate Rick Santorum recently stated that 'any prediction for what will occur in this race is certain to be wrong'. If you agree with this statement and you are looking for a course of action, you may consider setting a formal plan for your exit to be prepared for whichever way the political winds blow. By preparing yourself and your business the best you can for your eventual exit, you gain the only level of control that you can have over this concept of 'fairness'. Forewarned is truly forearmed in this case and you are well served in being prepared for whatever version of 'fairness' surfaces throughout and beyond 2012.

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