



AVOIDANCE OF FINANCIAL LANDMINES

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11AM EST

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AVOIDANCE OF

FINANCIAL LANDMINES

NAVIGATING THE PITFALLS OF ACQUISITION,
ACTIVITY & TERMINATION OF KEY FINANCIAL
TRANSACTIONS



HELLO!

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TODAY'S AGENDA

1

Business Acquisition Through
Disposition

2

Equipment Acquisition Through
Disposition

3

Borrowing, Servicing and Paying Off
Funds

1 Business Acquisition Through Disposition

Acquisition Landmines

Failure to perform adequate due diligence

- Sales / Cash flows
 - GAAP financial statements
 - Officer salaries not factored in
 - Validation of sales (related parties, etc.)
 - Assumptions used in cash flows and budgeting
- Assets
 - Collectability of accounts receivable
 - Quality of inventory and equipment

Failure to understand tax implications

- Asset or stock purchase
- Potential penalty exposure
 - Compliance history, exam history, open years
- State sales/income/franchise taxes
- Payroll taxes
- Cost segregation timing for effective tax planning

Failure to appropriately structure entity

Failure to understand the nature of the consideration to be paid

- Cash, stock, liability assumption, deferred, contingent
- Contingent Payment
 - Clear calculation of contingent amounts
 - Leases - capital/operating
 - Tax liabilities, indemnity provision
 - Timing

Failure to focus on business risks

- Concentrations of customers, implication
- Off balance sheet risks
- Ability to service profitably
- Loss of intangibles
- Loss of employees

Failure to engage appropriate support
(attorney, etc)



Operational Landmines

- Failure to benchmark: industry and geographic region- valuation
- Reduce concentrations - customers/vendors
- Non-compete / employment contracts
- Outstanding litigations/ regulatory matters

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Disposition Landmines

Underpayment / undervalued

- Misunderstanding deal structure (deferred comp), if not cash, gets confusing
 - Need for liquidity, accept less than worth
 - No formal competitive process
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Due diligence pitfalls

- Too soon
- Granting exclusivity too early in process
- Letter of Intent with too many contingencies
- Failure to assign “drop dead dates” to various steps like confirmation of purchase price
- Allowing unlimited access to communications (too many points of contact)
- Letting buyer have access to management / employees- focus off of the business
- Allowing unlimited informational requests

{ 2 Equipment Acquisition Through Disposition }

Acquisition Landmines

- Failure to invest linked to worker productivity
- Use of the incorrect acquisition method
 - Debt vs. Lease
 - Short term credit
 - Working capital
 - Working capital loan
 - Capital (or financial lease)
 - Operating lease
 - Customer financing

Failure to understand the implications on financial statements

- Deferred rent - straight line operating
- Capital versus operating
- Impact on debt covenants - financial and approval

Failure to take advantage of incentives / exemptions

- Federal - bonus depreciation, R&D Credits
- State - sales and use tax exemption
 - FL expanded its manufacturing M&E sales and use tax exemption
- Vendor discounts

Operational Landmines

- Failure to amend insurance
- Failure to adequately track inventory of equipment
- Failure to take advantage of tax advantages
 - Capitalizing repairs and maintenance

Disposition Landmines

- Failure to accurately report disposals for tangible personal property tax returns
- Underestimating costs of disposal
- UCC- 1s typically terminate after five years, submit continuation form.

{ 3 Borrowing, Servicing, and Paying Off Funds }

Acquisition Landmines

- Failure to understand cash flow implications
 - Assume borrowings of \$100,000 for one year at 10% interest


Debt Service Requirements:

Note Payable	\$ 100,000
Interest Expense	10,000
Total Debt Service	<u><u>\$ 110,000</u></u>

Operating Profit Required to Meet Debt Service:

Operating Profit	\$ 179,230
Interest Expense	<u>(10,000)</u>
Taxable Income	169,230
Tax Expense	<u>59,231</u>
Cash Flow Needed	<u><u>\$ 110,000</u></u>

Acquisition Landmines

- Impact of covenants (cross default)
 - Cross collateralization
 - Impact of presentation on financial statements
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Operations Landmines

- Amendments - changes to guarantees, UCCs
- Budgeting for covenants

Disposition Landmines

- Failure to have UCC-1 filing removed
- Failure to understand implications on tax planning



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