BLUE MAP

BLUEGRASS M&A PROFESSIONALS

When a business owner wants to exit:

Building an effective M&A advisory team

April 27, 2023 | Lexington

BLUEMAP

BLUEGRASS M&A PROFESSIONALS

Welcome

Dennis Wells | President

BLUE MAP

BLUEGRASS M&A PROFESSIONALS

BLUEGRASS M&A PROFESSIONALS

A group providing direction & guidance

BLUEGRASS	BLUE	"Blueprint"
M&A PROFESSIONALS	MAP	"Map"

OUR MISSION: It takes many disciplines to facilitate a successful exit for a shared client. Working together, Kentucky M&A professionals of similar beliefs and experiences can make the transaction process smoother for all.

BLUE MAP
BLUEGRASS M&A PROFESSIONALS

Participating companies

STEPTOE & JOHNSON PLLC

DEANDORTON

MERRILL
A BANK OF AMERICA COMPANY

cfa | CORPORATE FINANCE ASSOCIATES

HIG Houchens Insurance Group™
Nobody Works Harder.™

SVN®
STONE COMMERCIAL REAL ESTATE

WesBanco®

Today’s presenters

Seth B. Lawless, CRPC, CPFA
SVP, Merrill Lynch

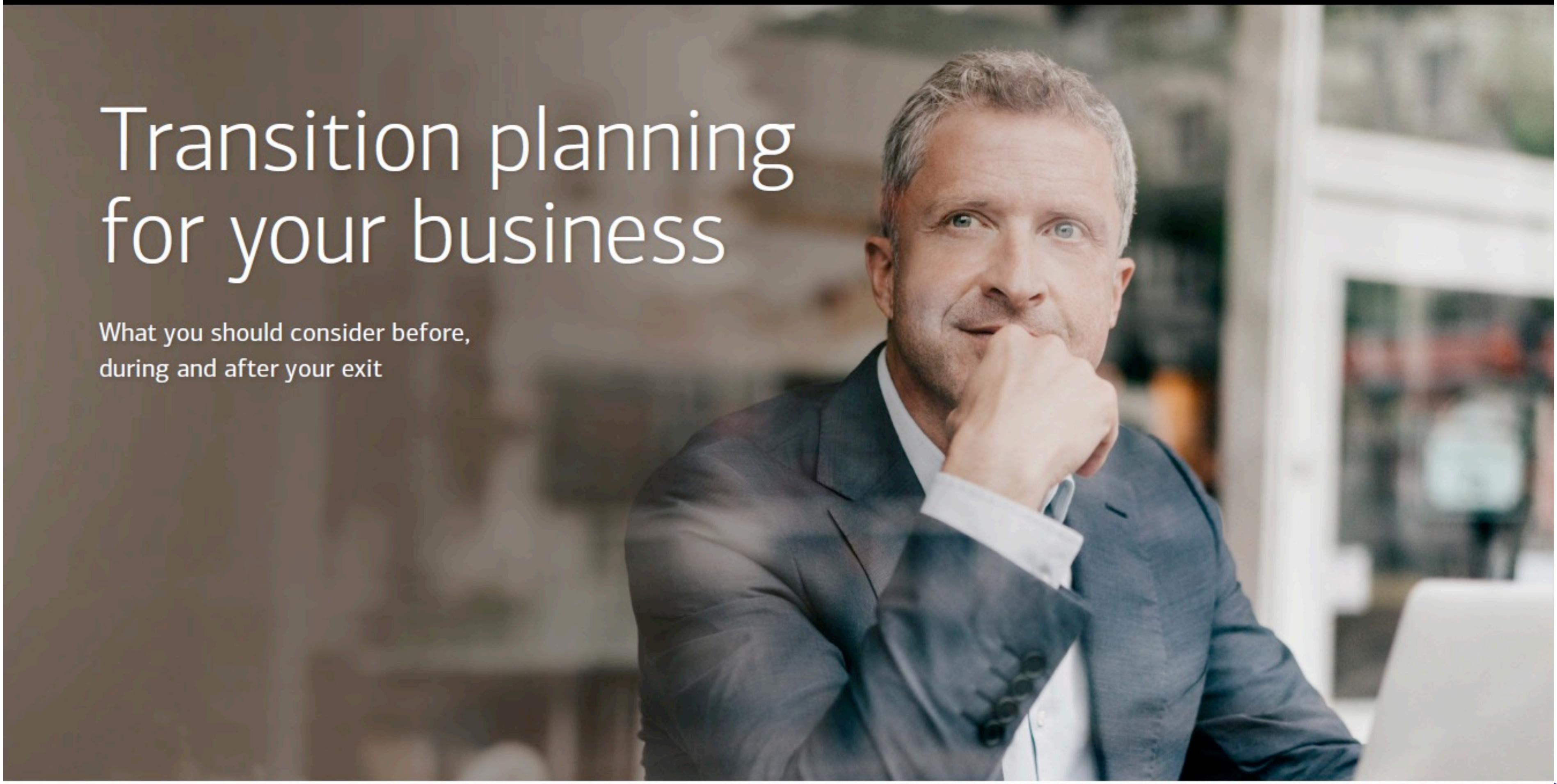
Financial advisor

When a client says they are ready to sell

OUR MISSION: It takes many disciplines to facilitate a successful exit for a shared client. Working together, Kentucky M&A professionals of similar beliefs and experiences can make the transaction process smoother for all.

Transition planning for your business

What you should consider before, during and after your exit



MERRILL
A BANK OF AMERICA COMPANY

Transition planning for your business

What you should consider before, during and after your exit.

Selling to a third party. Transferring to the next generation. Just stepping away. Your business has always been such a huge part of you that it's difficult to think about how you'd even begin to make a transition, let alone envision a future without it.

The good news is, exiting your business is not an all-or-nothing prospect. But it is a personal one. Based on our many years of experience working with business owners, we understand all that's involved in what can be a complex process. Not only do we have a group dedicated to helping you make a successful business transition, we have wealth advisors and specialists who'll work with your attorney, CPA and other advisors so you can have a smoother, more seamless experience.

In the following pages, we'll talk about:

- Creating a plan that integrates your personal, family and company goals
- The most common exit strategies
- What to consider when structuring a sale
- Ideas for your next chapter after you exit

We can help you put a plan in place and get you ready for your next chapter.

"When I would think about the exit planning process, I felt overwhelmed by where to start and all the moving pieces involved. However, once I began discussions on my priorities and long-term goals, I wished I had started this process much earlier."

Have you laid the groundwork for your exit?

Exit planning is an ongoing way of operating your business and personal life.

Putting a plan in motion

You're not alone if you're unsure of how to go about stepping aside. Many owners' identities are inseparable from their business, and planning to leave brings fear of the unknown. Visualizing the future and writing down your long-term goals and personal priorities can be the first step toward navigating the uncharted journey ahead.

What if you wait?

Without a plan, you might inadvertently relinquish control of your future through a variety of developments:

- **An unexpected departure.** If a partner leaves, you might hasten your exit to help meet financial obligations.
- **A purchase offer.** You might be tempted to sell to the first suitor and rush the sale, or you might yield to pressure and sell at a less than optimal price.
- **Additional taxes.** A lack of estate planning can lead to higher income taxes on a sale or unnecessary estate taxes for the family.
- **Your untimely passing.** You might jeopardize business continuity and leave successors unprepared for the transition.

Exit planning is simply good business strategy. With it, a lifetime of great ideas and hard work can be fulfilled. Our team of advisors and specialists can help you focus on what's most important to you professionally and personally.

What should your exit plan consider?

Actions in one area can affect another. Your business exit plan should include your personal financial goals along with those for your business.

Can your business continue without you at the helm?

A management team that's capable of effectively continuing the business without the owner's leadership is often critical to getting the most value and closing a sale. An equity incentive program could allow selected employees, particularly your senior management team, to benefit from the value they help create. This might also encourage certain managers to proceed through the due diligence process if you elect to sell your business.

What income do you need to support your post-sale lifestyle?

Your business may produce a significant cash flow for you and your family. Or it may handle certain personal expenses that you'll need to pay after the business is sold. Cash flow modeling before the transaction might make you more comfortable with a particular sale price. Knowing that you can (or cannot) maintain your current or expected lifestyle after the sale can provide an important piece of information to your exit planning strategy.

Are you interested in passing assets to the next generation?

If so, it's important to put some estate planning techniques in place well before the sale occurs for at least two reasons: valuation and discounts.

Valuation

A gift of a business interest completed before the closing may have an appraised value less than the value you receive from the sale. It's best to make the gift well before the closing to enable a gift-tax-efficient transfer.

Discounts

For gift-tax purposes, the fair market value of a business interest is best determined by a qualified independent appraiser, who can perform an analysis to arrive at the fair market value of the interest being gifted. Often the value of the interest will be lower than the same percentage of the company's total value due to two common discounts — a discount for lack of control and a discount for lack of marketability.

Are you charitably inclined?

If you are, consider a philanthropic strategy prior to selling your company to minimize capital gains tax or after selling it to maximize charitable income tax deductions. This also is the time to consider how personal and family values will inspire charitable giving and civic leadership after exiting your business.

What makes a business attractive?

If you keep your business exit-ready, you'll always be positioned for what comes next. These characteristics tend to make a business inviting to buyers.

Financials

- Contractually reliable revenue stream and cash flow
- Good visibility into future financial performance
- Strong history of profitability, with the potential to expand over time
- Comprehensive and verifiable financial statements that exclude any nonbusiness or personal expenditures

Industry

- Strong industry fundamentals
- Leading and defensible or unique market position
- Growth potential (organic and/or through acquisition)

Assets

- Tangible assets (equipment, inventory, property in good shape)
- Intangible assets (patents, brand, proprietary products, trade secrets, copyright protected)
- Desirable location

People

- Diversified and loyal customer base
- Deep and reliable supplier base
- Proven strong and competent management team

Which exit strategy is right for you?

A successful exit requires integrating your business, personal and financial goals. Reviewing various scenarios and your priorities for the future will help you shape an appropriate strategy.

Should you transfer to family or sell to a third party?

There are a range of options relative to what's most important to you. Here are two strategies that many owners commonly use.

Transfer within the family

Business owners are typically more focused on the people and culture of their company than solely on financial gain. That's why, for many, transferring ownership within the family is the preferred exit plan. They find it much more satisfying to pass their legacy on to someone who shares their passion and pride of ownership. But there can be challenges, including:

- Which family member will run the business and ultimately make final decisions?
- Is birth order, experience or interest in the business more important?
- How will your leadership choice affect family members who currently work in the business, own shares or have a vote?
- Are nonfamily members such as management, key employees, shareholders, partners and investors also qualified?

Compared with transferring within the family, selling to a nonfamily buyer might seem like a simpler prospect.

Sale to a third party

Financial buyers

Financial buyers (private equity firms) generally are investors focused on the financial return they can achieve by purchasing a company—either in terms of expected future earnings growth or the return from a future sale (perhaps to a strategic buyer) or IPO (initial public offering).

Strategic buyers

Strategic buyers tend to be companies focused on seeking acquisitions as part of their own long-term growth strategy—maybe to eliminate competition, strengthen their own operations, expand into new regions or achieve other synergies.

Is one type of buyer preferable? That depends. Often, strategic buyers may be willing to pay a higher price than financial buyers. But strategic buyers are more likely to eliminate employees and restructure the acquired company. You need to consider several factors when choosing the best buyer for your company.

Whatever you decide, we can help align your transition strategy to your specific situation, priorities and goals.

"Those dreams long held in the back of my mind—what I could someday do for my family and for my community —are starting to look real. It's an awesome feeling. It's a scary feeling."

How will your sale be structured?

A sale can take one of several forms that will determine some important consequences, like income tax treatment of payments you receive and liability exposure.

Sale of stock for cash or note

Description

This is the simplest transaction. You and any other shareholders simply sell your stock for cash or a promissory note from the buyer.

Liability exposure*

This generally results in the same business continuing with new owners/shareholders, and the new owners of the business bearing the burden of liabilities going forward.

Sale of stock for stock of the buyer

Description

You exchange your stock in your current company for stock in the buyer, and you become a shareholder in the buyer's company.

Liability exposure*

You would remain an owner of the continuing/acquiring company and as such would bear a share of the burden of liabilities with the other owners.

Sale of company's assets for cash or note

Description

You remain a shareholder in your company, but now it owns cash or a promissory note. The next step might be to distribute the cash or note and dissolve the company.

Liability exposure*

In general, if you sell the assets for cash or a promissory note, your company remains as an entity owned by you. As such, your company would remain exposed to any liabilities incurred by the company even if related to past events that become known in the future.

Sale of company's assets for stock of the buyer

Description

You remain a shareholder in your company, but now it would own stock in the acquiring company. The next step might be to distribute the stock and dissolve the company, in which case you would become a shareholder in the acquiring company.

Liability exposure*

In general, if you sell the assets for stock, your company remains as an entity owned by you. As such, your company would remain exposed to any liabilities incurred by the company even if related to past events that become known in the future.

Initial public offering (IPO)

Description

You remain a shareholder in your company, but it would become a publicly traded company, and your ownership percentage will become smaller.

Liability exposure*

You would continue as a shareholder in the same company, though now it would be publicly traded. As such, you would bear the burden of a share of liabilities with the other owners.

*You should consult your attorney to determine who would bear the burden of certain liability exposure issues.

What should you consider when negotiating your deal?

What you want as a seller, such as a higher price, can be in direct contrast to what the buyer wants. Here are some other areas that should be part of the deal.

Federal income tax considerations

Competing tax rules can offer advantages to a seller and disadvantages to a buyer, and vice versa. For instance:

For sellers

1. For tax purposes, it's usually best if a payment is taxed as a long-term capital gain.
2. An alternative option is a payment for a depreciable asset, which often is taxed partly as a capital gain and partly as ordinary income (called "recapture").
3. The least preferred option is a payment taxed as ordinary income.

For buyers

1. For tax purposes, it's usually best if a payment can be deducted currently.
2. An alternative option is a payment that leads to a depreciation or amortization deduction over a certain number of years.
3. The least preferred option is a payment that cannot be deducted or depreciated.

Earn-outs

What if the negotiated sale price is contingent on the business's future performance? An earn-out can help close the gap when a seller and buyer can't agree on a sale price. It can also encourage the seller and key employees to remain with the business after the sale. However, be mindful of the financial metrics that determine the payout—operations and financial reporting may be outside of your control once the deal is closed.

- From a tax perspective, will the payout be payment for services or part of the sale price? Sellers usually prefer viewing a payment as sale proceeds, and buyers are likely to prefer immediate deductions.
- When will the seller be taxed on the potential payout? Usually, taxpayers will use the installment method of reporting gain when payment occurs over more than one year. Installments can be complicated, though, and depend on several factors, including the maximum selling price and the time period over which the payment could be received.

Covenant not to compete

Sometimes the sale of a business includes paying the seller not to compete for a period of time. Payments made to the seller in return for such an agreement are generally taxed as ordinary income, not capital gain.

Retention/consulting agreement

Some buyers pay the seller to remain employed as a consultant. Such payments are compensation and are taxed as ordinary income. If you'll be staying on after the sale, consider how you'll feel working for someone else and not being the ultimate decision-maker.

Have you thought about the emotional impact of a sale?

Putting a number on your business, the transaction's complexity and timing can all add to heightened emotions. A knowledgeable team can help steady the course.

Finding the right number

Because of your deep personal connection to your business, attaching a numeric value can be difficult or even shocking when you learn that potential buyers have a lower value in mind. While getting the most money for the sale may be important, many owners balance financial gain with helping to preserve employment for their employees and concern for the business's reputation within the community.

Leaning on the professionals

Running your business while also focusing full time on the sale can be overwhelming. It takes skill and experience to fully understand the selling process and all its complexities. Make sure to lean on your team of specialists, such as your investment banker, transactional lawyer and private banker, to help navigate those steps.

Timing matters

Even if you and your business are ready for a sale, will the market be in a favorable or unfavorable cycle? Several factors may determine your business's value, including the number of businesses for sale, interest rates and the availability of capital. These factors can shift the economics from those favoring the buyer to those favoring the seller, or the other way around.

“Selling my business was a hard decision, but I knew it was the right thing to do. Hiring the right professionals to help me was one of the best decisions I’ve ever made. Together we made it possible.”

What will your next chapter be?

You can better define your plan if, before you sell the business, you think about how you want to fill your time, build your legacy and pursue other passions.

Family

- Travel without the worry of being away from your business.
- Build a vacation home where family can gather for years to come.
- Support educating family members and foster other important relationships in your life.
- Set up a family office to organize investments and to handle administrative duties that were previously part of the company's operations.
- Develop a family constitution to establish an investment philosophy and pass along family values.

Philanthropy

- Become a strategic partner, donor, volunteer or board member within the philanthropic community. Your experience as a business owner familiar with sound money management and making strategic use of limited resources, along with your personal values, may put you in a good position.
- Consider donating to a donor-advised fund. Or think about creating a family foundation that would allow you to take advantage of certain tax benefits, come together as a family to build a philanthropic vision, and implement a long-term giving initiative in the areas you care about most.
- Consult a philanthropic strategist to assess how one or more giving vehicles will enhance your legacy and charitable impact.

Business

- Fill the professional void with a new passion project, business idea or angel investing in other companies in your network.
- Provide seed money to help a next-generation family member chase his or her entrepreneurial dream.
- Become a consultant, serving on a board of directors or as an advisor at a new-business incubator.
- Look for income-producing ideas, such as purchasing real estate, which can create an operating entity with income.

What will you do with the cash from the sale?

Placing your sale proceeds in a short-term liquidity strategy gives you time to create a “multibucket” approach to reinvesting them for future use.

Privately held company

Sale

Short-term cash/lifestyle

Liquid assets, such as cash or short-term fixed-income investments

These funds are for near-term spending needs, such as mortgage payments, taxes that may be owed on the sale, charitable gifts, and living expenses for a year or two.

Long-term investment portfolio

A variety of assets, such as stocks, bonds and alternative investments

These funds are designed for growth to help provide for long-term needs and to maintain your lifestyle, typically in a portfolio invested over a period of time.

Opportunistic investments

Aspirational funds

These funds can be used for any future business investment, real estate acquisition or other projects.

Philanthropic goals

Vehicles such as a donor-advised fund or family foundation

These vehicles can be part of your philanthropic strategy to help ensure that your charitable goals are achieved.

Take action

Positioning your business for when you'll exit requires careful planning, often starting years in advance. A strategic approach can help strengthen its value and create a smooth transition for everyone involved.

Whether you envision an outright sale or a transfer of your business to your children, we can provide fully integrated financial solutions, expertise and tailored advice while aligning your transition strategy to your business and personal goals.

Having a well-designed plan can help ensure that you exit on your terms.

Take action today.

Contact your advisor to discuss your exit options.

Investment Banker

When to engage an I-bank and the value proposition

Patrick Powell
Managing Director & Principal,
Corporate Finance Associates

Mergers and Acquisitions

Why Do I Need to Hire an Investment Banker?

Corporate Finance Associates
Lexington & Louisville

The Investment Banking Process of Selling a Business… Cast a Wide Net!

Mergers & Acquisitions Tips:

- Business owner should not consider a proposal without having assembled a team of professional advisors (CPA / Investment Banker / Transaction Attorney / etc)
- An unsolicited proposal is rarely a premium offer. Often it is just fishing, seldom a true sign of solid market interest
- One buyer is no buyer!
- Sometimes larger companies are easier to sell due to better set of books
- Larger companies typically command a higher multiple of EBITDA

Mergers and Acquisitions Tips:
(continued)

- Price isn't everything, very frequently the best price is not the best deal
- Reps and warranties are often a very contentious piece of the negotiations
(R & W Insurance is often a good option)
- Consider alternative exit strategies and structures (ex. ESOP vs. traditional sale, sale to strategic buyer, sale to financial buyer)
- Cash free, debt free… ain't what it says!!
Net working capital negotiations are key!

VALUE PROPOSITION:

Why should my client engage an Investment Banker?

- Better Terms
- Higher Price for the business
- Greater chance of deal closing
- Reduced stress to seller
- Due diligence items are managed
- Less risk of breach of confidentiality

Selling a business is a PROCESS, not an event!

Global Footprint, Local Expertise

Over 20 Offices in North America, and Partner Offices throughout the US, Europe, Brazil, and Asia

Atlanta, GA	Houston, TX	Omaha, NE	India
Austin, TX	Lexington, KY	Portland, ME	Asia
Columbus, OH	Los Angeles, CA	San Antonio, TX	Europe
Dallas, TX	Midland, TX	San Diego, CA	Brazil
Denver, CO	Minneapolis, MN	San Francisco, CA	Africa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WORLDWIDE
CORPORATE FINANCE ASSOCIATES

Michael Dilly, CPA, ABV
Dean Dorton

CPA/Accounting

Basics of valuations, tax planning, due diligence and QoE

Transaction Services at Dean Dorton

Mike Harbold, Tax Associate Director
Michael Dilly, Business Valuation Manager

DEANDORTON

Transaction Services at Dean Dorton

- Business Valuation
- Tax Planning
- Due Diligence
- Quality of Earnings
- Purchase Price Allocation

Why a Business Valuation is Important

- Set expectations early
- Comprehensive management interview can help prepare talking points in negotiations
- Learn what drives value
- Understand potential upside in a synergistic purchase

Due Diligence & Quality of Earnings

- Deep dive into the underlying operations
- Normalization adjustments that can impact value
  - For example, the owner may pay themselves too much or too little
- Gain an understanding of accounting procedures to give a buyer more confidence in the purchase

Success Story

- Manufacturing company purchased a $8 million revenue product line from a Fortune 500 company
- Dean Dorton's valuation model became central to the negotiation process
- Helped the client understand non-cash value adds through an analysis of overhead cost accounting

Hot Topics – State and Local Tax

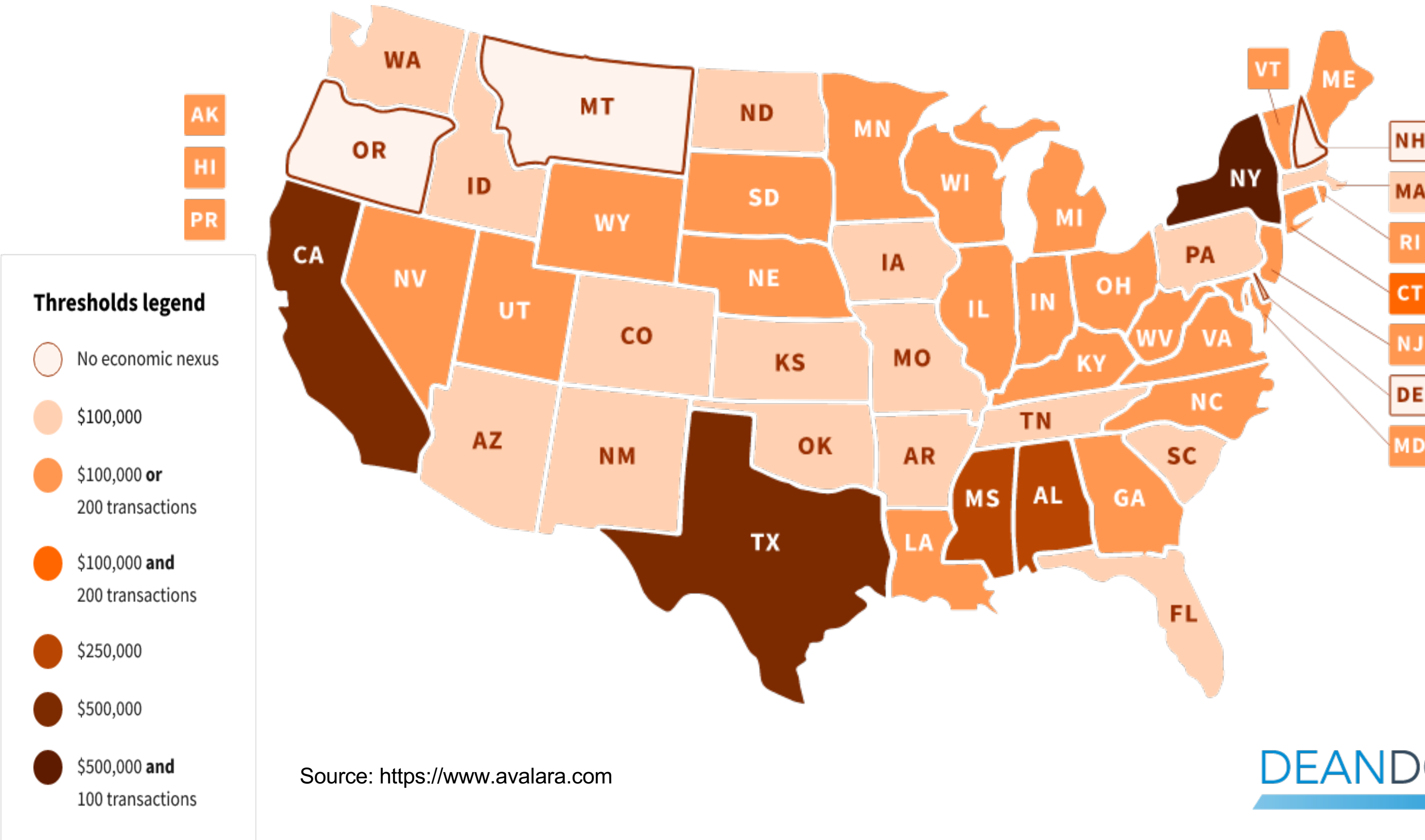
- Expanded sales tax collection responsibilities and tax bases
- State pass-through entity taxes

Sales tax

US Supreme Court decision in *SD v. Wayfair*, June 21, 2018

- Sellers no longer required to have physical presence in a state to be required to collect sales tax
- Most states now require a seller to collect sales tax if they have more than $100k of sales into the state annually
- Some states still have a number of transactions threshold (ie, 200 transactions)

State Economic Thresholds



Source: https://www.avalara.com

DEANDORTON

Sales Tax

- Expansion of sales tax base
  - Kentucky has added numerous new “services” to the sales tax base in the last few legislative sessions and will likely continue
  - Software as a Service (SaaS) is the major one for most businesses
  - All states and even some localities make there own taxability decisions
    - Texas taxes many technology services that other states don’t
- In a deal structured as an asset sale, it is critical to consider whether sales tax applies to the transaction or portions of the transaction

State Pass-Through Entity Taxes

- In the TCJA of 2017, the state and local tax deduction for individuals (itemized deductions) was capped at $10,000
- Since then, starting with Connecticut, most states have legislatively enacted pass-through entity ("PTE") taxes to bypass this limitations.
- In practice, these state PTE taxes shift the state tax deduction from Schedule A (itemized deductions subject to $10k cap) to Schedule E (PTE taxable income without limitation)

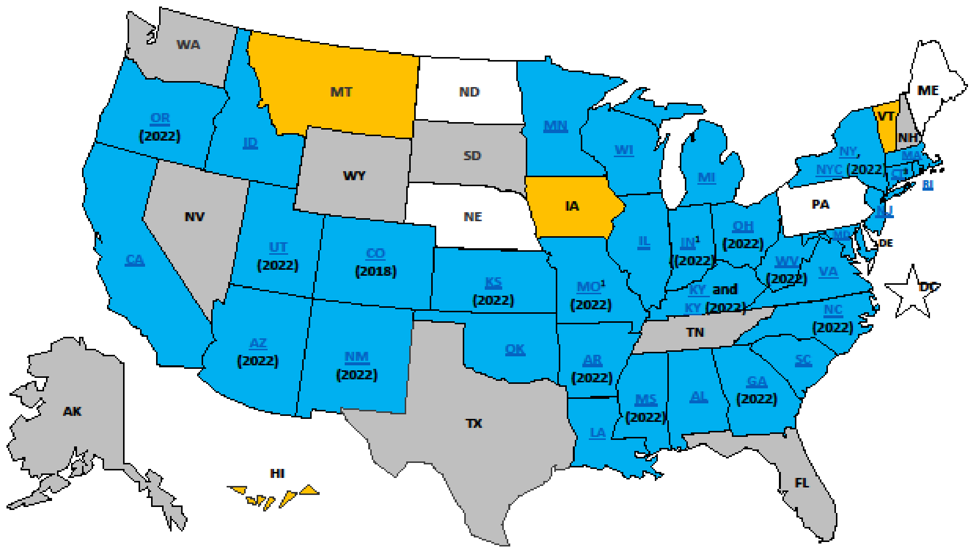
State Pass-Through Entity Taxes

- 32 states have enacted PTEs taxes
- Kentucky, Indiana and West Virginia passed PTEs during their 2023 legislative session
- All 3 provided that the “election” is retroactive to January 1, 2022
- Still waiting for guidance on retroactivity and prospective elections
- Every state’s PTE tax operates differently on when to make the election, who is included and how the ultimate owners are made whole
- For multi-state PTEs, it is critical that the owner’s state of residence allows a credit for PTEs paid to other states
- State PTE taxes can provide a significant Federal tax benefit in deals that are structured as asset sales

State Pass-Through Entity Taxes

States with Enacted or Proposed Pass-Through Entity (PTE) Level Tax

As of April 21, 2023



32 states (& 1 locality) that enacted a PTE tax since TCJA SALT deduction limitation, effective for 2021 (or earlier) unless noted:
AL, AR[1], AZ[1], CA, CO[2], CT[3], GA[1], ID, IL, IN[1], KS[1], KY[1] (& KY) ,LA, MA, MI, MD, MN, MO[1], MS[1], NC[1], NJ, NM[1], NY, OH[1], OK, OR[1], RI, SC, UT[1], VA, WI, WV[1], and NYC[1]

[1] Effective in 2022 or later – on map (2022) or (2023)
[2] Retroactive to 2018
[3] Mandatory

4 states with proposed PTE tax bills:
HI – SB 1437 passed Senate, in House
IA - HF 352 passed House, in Senate
MT – SB 554 passed legislature, waiting for Governor to sign

VT – HB61/SB45 passed Senate, in House

9 states with no owner-level personal income tax on PTE income:
AK, FL, NH, NV, SD, TN, TX, WA, WY

7 states with an owner-level personal income tax on PTE income that have not yet proposed or enacted PTE taxes:
DC, DE, ME, MT, NE, ND, and PA

AICPA

Source: https://us.aicpa.org

Thank you

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Transaction Attorney

Why real M&A experience is a requirement

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Andrew R. Smith

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Xavier Staggs

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Huntington, WV

Bluegrass M&A Professionals presents:

Five Reasons to Involve an M&A Attorney

(and involve them early!)

STEPTOE & JOHNSON PLLC

Andrew Smith and Xavier Staggs

1. Planning a Proper Timeline

2. Drafting Letters of Intent

3. Spotting the Issues

4. Completing Due Diligence

5. Negotiating Representations and Warranties

Disclaimer

These materials are public information and have been prepared solely for educational purposes. These materials reflect only the personal views of the author and are not individualized legal advice. It is understood that each case and/or matter is fact-specific, and that the appropriate solution in any case and/or matter will vary. Therefore, these materials may or may not be relevant to any particular situation. Thus, the presenter and Steptoe & Johnson PLLC cannot be bound either philosophically or as representatives of their various present and future clients to the comments expressed in these materials. The presentation of these materials does not establish any form of attorney-client relationship with the authors or Steptoe & Johnson PLLC. While every attempt was made to ensure that these materials are accurate, errors or omissions may be contained therein, for which any liability is disclaimed.

SJ STEPTOE & JOHNSON PLLC

Brad Noel

SVP

WesBanco Corporate & Commercial Banking

Commercial Lender

What happens in the loan review and approval process

Credit Finance in Leveraged Buy-out

The “sausage making” isn’t always pretty.

Even with the best of cash flow deals, the amount of leverage a bank will finance will vary and often depend on other parameters.

Ask your banker if they are a collateral or cash flow lender and what experience they and their bank have had.

Bankers need time to Underwrite and socialize the deal with credit.

Well-structured credit facilities, often involve our asset-based lending partners and can include sellers or mezzanine financing.

Non-Standard Timeline

Bank Interview/NDA and initial disclosures

Non-binding term sheet presentation/negotiations

Agreement of term sheet/initial deposits paid to Bank

Bank Underwriting, Appraisals, field exam, etc.

Bank Approval/Commitment Letter

Loan & Legal documentation Process/negotiations

Transaction Closing/Funding

Let's Talk Leverage: How much is too Much!

Keep in mind, Banks are heavily regulated lending institutions working off very thin margins.

Credit approval personnel are by their very nature cautious.

Allowance for higher leverage levels will depend on a number of factors.

Underwriting is vital. The better the disclosures, quality of financials and modeling, the easier the underwriting and approval.

Strong Cash flow, Reasonable levels of Leverage, Collateral, Structure and seasoned Management are keys.

In UW, the Bank will also look at how it gets repaid and when.

Sellers Note, Mezzanine, Working Capital

Negotiation of Loan Documentation.

Keep in mind Mezz debt doesn’t come cheap and often with “strings attached.”

If the seller is being asked to stick around for an “earn-out” why not take back a seller’s note.

Stand-still language and Subordination considerations

Cash flow is king. Cash Dominion considerations.

Working Capital needs/Borrowing Bases

Other Points of Consideration

Intangibles-Trademarks, Patents Client Lists

Costs of Capital: Increasing and will stay elevated for a while

Credit is tightening and finding a bank willing to lend its capital may be getting tougher

The more “cooks in the kitchen”, the higher the legal bill.

Alternative Financing: SBA/USDA

Real Estate

Value and deal structure in an M&A transaction

Nathan Dilly
Senior Advisor
SVN | Stone Commercial Real Estate

Overview

1. About SVN

2. Is Real Estate Always Involved in a Business Sale?

3. Know Your Property Value

4. Deal Structure/Exit Strategy

SVN By The Numbers

$21.1B
Total value of sales & lease transactions

8
Countries & expanding

200+
Offices worldwide

7+7
Core services & specialty practice areas

2,000+
Advisors and staff

57M+
SF in properties managed

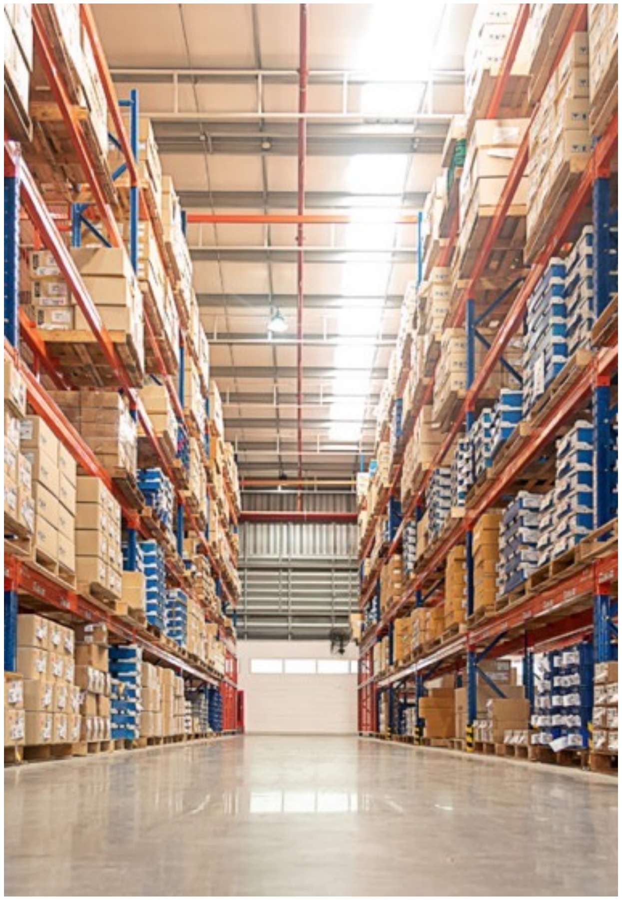
SVN Offices

WA
OR
ID
MT
ND
SD
WY
MN
WI
MI
IA
NE
NV
UT
CO
KS
CA
IL
IN
OH
MO
KY
OK
AR
AZ
NM
TN
NC
SC
MS
AL
GA
TX
LA
FL
AL
HI
NY
PA
VA
MD
ME
VT
NH
MA
NJ
SVN

Is Real Estate Included?

1. Lease or Own?
2. Surplus Properties
3. Expansion/Consolidation
4. Debt

Wait… It's Worth What?



ASSUMED VALUE

- 50,000 SF Industrial Building
- $3.50/SF/YR Current Lease Rate
- $175,000 Annual Rent
- 8% Cap Rate
- $2,187,500 Value

MARKET VALUE

- 50,000 SF
- $5.00/SF/YR
- $250,000 Annual Rent
- 8% Cap Rate
- **$3,125,000 Value**

Real Estate Advantages

1. Deferring Taxes
2. Sale-Leasebacks
3. Portfolio vs. Individual Asset Sales
4. Preserving Cash-Flow

Insurance

Reps and warranties insurance and its importance in M&A

Travis Anderkin
Senior Producer
Houchens Insurance Group

Introduction to Reps and Warranties Insurance

PROTECTING YOUR M&A TRANSACTIONS

Travis Anderkin – HIG Houchens Insurance Group™
Nobody Works Harder.™

Agenda

- Overview of Reps and Warranties Insurance
- Benefits and applications
- Key policy elements
- Considerations when purchasing coverage
- Conclusion and Q&A

Overview of Reps & Warranties Insurance

Definition: Insurance policy designed to protect against financial losses arising from breaches of representations and warranties made during M&A transactions.

Purpose: Provide a risk management tool to facilitate deal-making and allocate risk between buyer and seller.

Benefits of Reps & Warranties Insurance

- Reduces indemnity exposure for the seller
- Enhances deal value for the buyer
- Resolves impasses during negotiations
- Provides a clean exit strategy for the seller
- Expedites closing and post-closing processes

Key Policy Elements – Coverage

Breaches of reps and warranties

Coverage for unknown pre-closing breaches

Survival period and policy term

Coverage limits and sublimits

Retentions and coinsurance

Key Policy Elements - Exclusions

Common exclusions: Fraud, forward-looking statements, matters disclosed in due diligence, covenants, and certain tax matters

Tailored exclusions based on specific deal risks

Considerations When Purchasing Coverage - Timing

BEGIN THE PROCESS EARLY IN THE DEAL TIMELINE

COORDINATE WITH UNDERWRITERS AND ADVISORS

ALLOW TIME FOR DUE DILIGENCE REVIEW

Information Needed to Get an Indication?

- Draft Transaction Agreement
- Financial Statements (including an audit if possible)
- Deal Overview Deck
- What diligence is being conducted?
- What law firm is representing the insured?
- Name of the target, and nature of their operations? Any non US operations?

Considerations When Purchasing Coverage – Costs

- Premiums: Typically range from 3% to 5% of the policy limit
- Underwriting fees
- Additional costs for special endorsements or amendments

Conclusion

- Reps and warranties insurance can provide valuable protection and facilitate M&A transactions
- Careful planning, coordination, and evaluation of coverage options are essential
- Consult with experienced advisors and carriers to ensure a successful outcome
- The M&A marketplace saw more submissions last year than they had in the last decade due to the uptick of purchases

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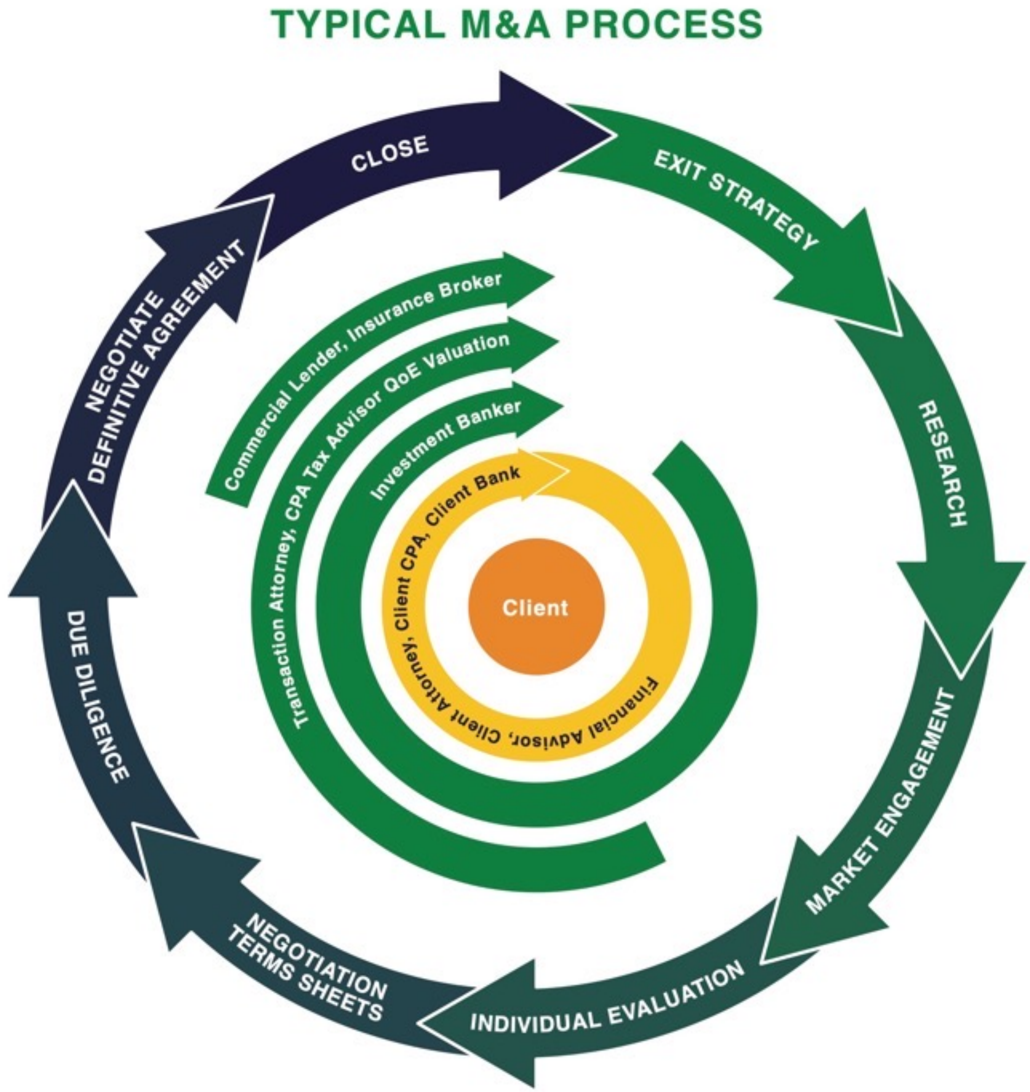
Todd Clark, CCIM

Managing Partner, KY Seed Capital

The Seller

An executive who has acquired, scaled and exited multiple businesses provides insights to the processes, pitfalls and advisor team needed to achieve a successful transaction



OUR MISSION: It takes many disciplines to facilitate a successful exit for a shared client. Working together, Kentucky M&A professionals of similar beliefs and experiences can make the transaction process smoother for all.

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Networking | Post Time: 1 p.m.

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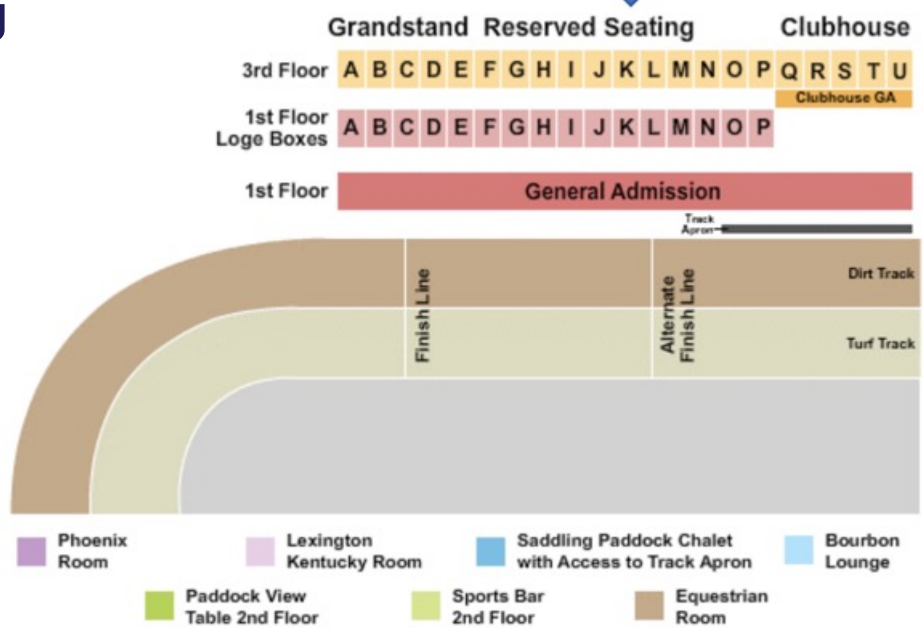
Keeneland gathering location



Grandstand Reserved Seating Section K Rows A-D