

Coronavirus Liquidity Concerns? Don't Overlook These Steps Before Selling Selected Business Assets

The COVID-19 pandemic is having an unprecedented financial impact on many small and large businesses. The uncertainty surrounding how long the crisis will continue and the ultimate impact on the economy has business owners critically reviewing their operational and financial needs. For many, now may be a time to consider selling non-core assets in an effort to generate liquidity and reduce cost. The following are some general recommendations for businesses considering a sale.

I) Identify Eligible Assets

1. Consider the costs required to maintain, in the short and long-term, all assets compared with the potential financial benefits of selling the assets and not having them continue to "weigh down" cash flow.
2. Consider whether third party consents will be needed to sell non-core assets.
3. Determine how taking the assets out of your business will impact your operations and ability to service existing customer obligations on a broad basis consistent with your company's mission.
4. Prepare to address potential buyer questions relating to the assets you desire to sell.

II) Identify Potential Buyers

1. Consider why potential buyers may want or need your assets.
2. Develop a marketing strategy for the assets.
3. Evaluate the financial ability of potential buyers to successfully acquire your assets and transaction costs.
4. Perform other due diligence to fully understand potential buyers and reduce obstacles to closing sale transactions.

III) Assemble an Experienced "Deal" Team

1. Hire reputable advisors with experience closing transactions quickly, including an M&A lawyer; a business accountant; and an investment banker.
2. Identify internal team members to help manage the sale of assets.
 - o Ensure individuals have familiarity with the assets; and
 - o Plan to allocate internal resources to devote proper time and attention to the sale transaction.

IV) Identify Material Issues and Develop a Plan to Address Them

1. Confirm that transferring assets will not leave the business insolvent and susceptible to claims of creditors in a bankruptcy proceeding;
2. Consider other potential problems, such as tax or environmental exposures, before the buyer discovers them;
3. Formulate a plan for how best to disclose and control messages to the buyer about these issues; and
4. Use information identified to protect your interests when the transaction documents are drafted.

V) Prepare a Letter of Intent

1. Work with your deal advisors to draft a letter of intent that includes terms you expect and need covered; and
2. Have a document ready to quickly provide to potential buyers to facilitate a quick and efficient transaction closing.

VI) Stay Focused on Core Business

1. Consider any deals in the context of continuing business obligations; and
2. Anticipate operational and financial impact if a transaction does not close.

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Additional COVID-19 resources from Chamberlain Hrdlicka are available at this link: https://www.chamberlainlaw.com/practices-chamberlain_covid-19_resources.html

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