Making business succession a little less complicated

Although 90 percent of U.S. businesses are family owned, only 30 percent are handed down to a son or daughter.

Business succession is a complicated matter. But with the right advice and guidance it can work to help everyone involved, says Gregg Eisenberg, a partner with Benesch, Friedlander, Coplan & Aronoff LLP's Corporate and Securities Practice Group in Cleveland.

"It just doesn't happen very often that dad or mom will automatically pass on their business to a son or daughter," says Eisenberg. "It's always more complicated than that. The business owner has a lot of pressure to satisfy a whole bunch of people, and a lot of complex issues need to be addressed."

Some issues include how to determine which family member, if anyone, would be the best person to run the business, whether to give children equity in the business, or whether to sell the business to a new owner and set up a trust fund for the kids.

"We've been involved in many of those situations, and we help business owners make the right choices for their families and their business," Eisenberg says.

Although business succession planning can be a complicated family affair, it is sometimes less so for privately held companies owned by a partnership.

"Other than just selling the business outright, there are many ways to start your business succession through numerous recapitalization structures that can allow owners to take some chips off the table," says Eisenberg. "Because we represent a lot of middle-market growth companies, most owners want to see their business expand, but at the same time, they want to take some cash out of their business, which allows them to enjoy the fruits of their labor."

Gregg A. Eisenberg

Eisenberg sees a lot of recapitalization deals from private equity firms that are looking to purchase a minority or majority interest in the company's equity to the company taking on additional leverage and making a dividend. These transactions allow the business owners to stay involved in the company and eventually sell the rest of their equity when they feel the time is right to move on.

Despite the latest rise in interest rate, it's still attractive for private equity firms to borrow money to make strategic acquisitions.

"There are many private equity funds that still have a lot of capital to put to work. For now, it's still a somewhat robust seller's market," explains Eisenberg. "Recapitalization deals help protect business owners against downside risk because markets and industries change over time. Even if you have a strong, growing company, you just never know what the future holds. A recapitalization allows you to take some money out of the company when you have the prime opportunity to do that."

But for business owners who are not ready to sell, the current strong merger and acquisition market is opening opportunities to make key acquisitions or to divestitures in noncore businesses.

"Ohio still has a lot of strong, middle- and upper middle-market companies generating annual revenues of more than $100 million that are growing organically or through acquisitions or strategic partnerships or alliances," Eisenberg says.

Eisenberg says most Benesch business clients who are buying or selling consult the law firm for advice.

"We've done acquisitions for years so we know how to do it right and we know how to get the deal done, " he says.

The difference today is that the companies are coming from a broader range of industries. While Eisenberg is still working with a lot of manufacturing companies, he's also serving more service firms, software technology companies and biotechnology businesses.

"Ohio is taking positive steps to diversify the businesses we have here," says Eisenberg. "We still have a long way to go. Some of the growing middle market companies could be the next generation of large, publicly held companies."