Business Start-Up: Tee It Up for Success

Golf instructors and PGA pros will tell you that the key factor in a consistent and repeatable golf swing is the setup. The alignment of the ball, the club, and the player is the basis for everything that follows. If the ball is too far forward, too far back, too far away, or too close, for example, the player will have difficulty making a consistent and repeatable golf swing that will enable them to achieve the desired success.

As in golf, the 'set-up' is also the key to any successful business organization. Over half of new businesses fail within their first five years because most were not adequately structured or capitalized. Even the sharpest business person cannot succeed, or at least will not maximize their business potential if they don't begin with the right structure and adequate capitalization.

Selecting a Business Structure

Having the correct type of business structure, whether it be a partnership, a limited liability company, a C corporation, or an S corporation, is critical in determining whether or not a business owner will maximize their success. Unless the appropriate type of business structure is selected, the business owner may have difficulty extracting revenue from the business, may not be able to obtain revenues necessary to fund growth, or may have difficulty securing bank financing for equity contributions.

Capital and Finance Options

At the same time, if a business venture has the appropriate structure but inadequate financing, whether debt or equity, that business will struggle to succeed. In capitalizing a new business, the hierarchy of funding sources typically resembles the following:

- Owner Equity or Capital
- Equity or Capital from Friends and Family of the Owner
- Equity Raised through Crowd Funding
- Senior Bank Debt
- Subordinated Debt
- Angel Investors
- Venture Capital Investment and/or
- Public Investment

While there are almost an endless variety of other financing sources and alternatives (including factoring, government loan programs and grants,

bonds, etc.), the vast majority of businesses are capitalized and financed with some combination of the above. Most businesses never receive financing beyond items 1 through 3. Nevertheless, it is important to structure the business organization in such a way to maximize the potential availability of other sources of financing.

Key to Success

As stated above, over half of all businesses fail within their first five years. The vast majority of those failures occur due to not having the proper structure or capitalization. Like the golf analogy, businesses often fail because owners and operators focus almost exclusively on their swing (the business plan and operations) rather than on their setup (the business structure, capitalization and financing). The golfer who focuses exclusively on the swing and neglects the set-up may hit an occasional winning shot, but, more often than not, that golfer will not hit the ball as strongly or accurately as they could. Like the golfer, the business owner who focuses on the business plan and operations while neglecting the business structure and capitalization may still succeed, but that success may be limited.

At Carlile Patchen and Murphy, our business attorneys have the knowledge and experience to consult business owners at various stages, from startups to established family companies and public corporations. We can help you to structure or restructure your business. We can also help you locate financing sources and develop the programs needed for accessing those sources.

Bottom line; with an over 50% chance for failure, having your business well-structured with the right capital and resources in place can only increase your odds for success.