

Business Exit Strategies And The Recession 2009

Ed Bailey

e.bailey@barrellison.co.uk

01223 417200

22/04/09

- AN INTRODUCTION
 - Sale and purchase
 - Allocation of:
 - risk AND
 - timing of rewards/payment
 - Asset sale or share sale
 - “Clean break”
 - Warranties and indemnities

- EMPLOYMENT LAW ISSUES
 - Most transactions involve employee issues
 - Share sale/Asset sale – TUPE
 - Problems now?
 - Allocation of risk/cost?
 - Warranties and indemnities

- **SHAREHOLDER RIGHTS AND PROTECTION**
 - Shareholder agreements/articles of association – set up?
 - Regulation of...
 - Share transfer restrictions
 - Rights of veto and/or exclusion from decision making
 - Flexibility
 - Good leavers and bad leavers

- BRINGING IN NEW MANAGEMENT/SHs
 - A first step to exit?
 - Flexible – voting and dividend rights, veto, exclusions
 - Don't give it away – getting the valuation right & %s
 - Tax issues – share schemes

- EARN OUTS

- Advantages/disadvantages
- Define performance indicators
- Seller protection
 - battle for commercial freedom v. earn out value
 - endeavours to maximise profit
 - business carried on in the ordinary course
 - remuneration
- Getting your money
- Change of relationship and tax

- MBOs
 - Advantages/disadvantages
 - Often involve VC/angel funding
 - What risk is management prepared to take?
 - SH protection again and flexibility
 - Earn out?
 - Conflicts of interest

THANK YOU

Ed Bailey

e.bailey@barrellison.co.uk

01223 417200

22/04/09