

Business Matters

Strategies for managing your business



When to get a business partner?

It can be lonely at the top. Even if, by the “top,” it is simply heading up a one-person or brand-new business. That is why many great companies were started by partners.

With a partner, there is always someone to share the excitement and risks of running a company with; someone to bounce ideas off of; to help shoulder the financial and work-load burden. Face it: starting and running a business can be a lot more fun when working with another person that is liked and respected.

But partnerships also have perils. Over time, partners are likely to have disagreements, resentments, changing goals and lifestyle choices. If working with a partner is an option that is being considered — or that arrangement is already in place — it is important to think through and formally structure the relationship.

Ideally, in a partnership, there is strength from having a balance of complementary talents or personalities.

For instance, one partner may be a terrific “outside” person: securing sales, marketing and networking. The other partner may be an ideal “inside” person: ensuring certain bills are paid and products or services get produced. But it is easy for tensions to grow. The “inside” partners

may view the time spent by the other on business lunches, trade shows, and sales calls as just fun and games. Meanwhile, resentment may arise by the “outside” person from having to split all the cash brought in with a partner doing what may be considered mundane office work.

Even more likely, over time, partners may have conflicts about how to spend money, who to hire, which direction to take the company. When partners do not get along, the business inevitably suffers.

So before leaping into a partnership, be sure to:

1. Have an in-depth discussion with the other partner. Sit down and thoroughly discuss these issues:

- What is the ownership division? Who owns what percent?
- If it's a 50/50 split, how do disagreements get settled?
- What jobs/responsibilities does each partner have?
- How much time will each partner put in?
- How much money will each partner contribute?
- How will general business decisions be made?
- What decisions does each partner have final authority on?
- How will serious disputes be resolved?
- What happens if one partner wants to leave the business?

HWI LTD

PO Box 99858,
Newmarket Auckland 1149

•
TEL 09 307 8500

•
FAX 09 307 8505

•
E-MAIL
hwi@hwi.co.nz

•
WEBSITE
www.hwi.co.nz

•
DIRECTORS
Cal Rogers
Chris Henderson
Kevin Wilson
•
Accounting
Auditing
Taxation Advice
Business Planning

IN THIS ISSUE - 3RD QUARTER 2010

- When to get a business partner?
- Look before you leap—do a feasibility study
- New provisions for employers and employees
- IRD new compliance plans
- A great read

CHARTERED
ACCOUNTANTS

- What happens if one partner wants to sell the company?
- What happens if a partner dies or becomes disabled?
- What if you want to bring on additional partners?
- Can partners work for any other company or do any other work on the side?

2. Draw up written partnership agreement.

Once all the key issues have been discussed, get legal advice and get a legally binding contract drawn up, spelling out the terms of your partnership. If a partnership already exists, that does not eliminate the need for an

agreement. If a partner does not want to do this, that is big red flag.

3. Choose an appropriate business structure. Discuss with an accountant what legal form your partnership should take. A simple partnership does not provide protection for either of your personal assets.

4. Consider a buy/sell agreement. A “Buy/Sell” agreement spells out the terms by which one partner can buy the other out. In the event of a dispute or differing goals, a buy/sell agreement can enable the company to survive. Discuss ways — such as purchasing life insurance, — to buy out

a partner’s heirs in the event of death or disability. This reduces the risk of one partner ending up in business with another that was never intended.

And here is something to keep in mind: in the eyes of the law, a written agreement is not required to have a partnership. If, over a beer, two friends decide to start selling a product at a street fair, a partnership may have formed. One partner may acquire intellectual rights of the other and both may each be responsible for all bills and obligations. So be very clear about the nature of the relationship before beginning to work with anyone.

Look before you leap - do a feasibility study

Picture this. You have what you think is a great idea for a new business and have told a couple of family members or friends. They slap you on the back, feed your ego and tell you it sounds like a winner. Sound familiar?

But does the new business idea really have a good chance of success?

Most business owners do not plan to plunge ahead blindly with an idea. They know they will have to write a business plan for the new business — especially if they are thinking of raising funds. But even before that point a quicker feasibility analysis can save valuable time.

A feasibility analysis is a chance to flesh out an initial business idea; to see which components are already in place to make the idea possible and which are not. This analysis is a quick assessment of whether it can be pulled off successfully. Before developing the specific components of a business plan in depth, take time to see if the idea appears to be feasible — and what are the likely roadblocks that will be faced.

A feasibility analysis is a chance to open your eyes, ask some very tough questions, then check to see whether the idea (as originally conceived) needs to be modified, re focused, changed dramatically or perhaps even scrapped altogether. It is better to drop an unworkable idea early on and move on, pursuing one of your other, potentially more successful, ideas.

How does a feasibility analysis differ from a business plan? Think of developing and planning a business as involving a few components:



- 1. Vision:** identifying and articulating your business idea and concept.
- 2. Feasibility analysis:** challenging your concept, identifying which components are in place that make it realistic to execute, recognising the biggest obstacles that are likely to be faced.
- 3. Business plan:** clarifying your business strategy in detail, describing how you’re going to execute your vision, developing the major components of your business, projecting detailed financial forecasts.
- 4. Marketing/operations/technology plans:** describing in detail and developing budgets for the internal aspects of how the business will run day-to-day.

How detailed a feasibility analysis is will depend on how unusual an idea is or the level of difficulty in reaching the market. The more novel your concept is, or the more untested its marketing and sales channel is, will influence the level of investigation required. This illuminates whether the fundamental building blocks are available or whether they need to be created.

Consider this idea: tasty meals that come in packages which are self-heating, and that will be sold to airline passengers to eat while flying. There are many things that could be quickly considered in testing the feasibility of this idea. Does such packaging already exist and is it tested? How expensive would it be to get space in airports to sell them? Essentially, would airlines allow or want such packages on planes?

With every feasibility analysis, start by evaluating yourself. Are you really suited to run a business? Do you personally have the knowledge and skills to pull this off? Can you assemble a winning team? Is the idea based on what the market truly wants or is it based on other motives – eg. it may sound like a good idea or it may solve a personal problem, such as being out of a job. If it does, think again.

A feasibility analysis is only a beginning to a business plan — and to your questioning and exploring. You should continually be challenging your assumptions. It is the entrepreneurs most willing to ask themselves the tough questions who succeed.

New provisions for employers and employees



The two Bills introduced into parliament on August 16, intend to provide employers and employees with a more flexible relationship.

Through these Bills, the Government also aims to grant employers with increased control over their places of work.

The Bills propose a number of changes to the Employment Relations Act 2000 (ERA) and the Holidays Act 2003.

The most significant modifications to the ERA pertaining to employers relate to union access to workplaces, communication with employees during collective agreement bargaining, revision of the 90 day statutory trail period, and adjustments to the personal grievance system.

The Holidays Amendment Bill provisions see the possible cashing up of the fourth week of annual leave and transfer by agreement of public holidays.

Union access

Union access is currently in the power of unions, whereby a workplace can be entered without notifying the employer. Such access was however, subject to a requirement of reasonableness regarding the time and method of entry and compliance with work safety requirements.

The Bill proposes to mandate that union access to workplaces is conditioned upon the employers consent. This intends to afford employers more control over who is on their site and when.

If an employer denies consent to union access, they must produce a formal written explanation of this denial within two working days. Failure to do so is a breach of legislation and could be subject to penalties.

Communication during collective bargaining

The Bill posits direct communication between employers and employees in collective bargaining (including details of any settlement offer). Herein, an employer can inform employees of its proposals for collective agreement

These communications must be consistent with the employer's duty of good faith under the ERA.

Personal Grievances/ test for unjustified dismissal

The Government is promoting this new employment law package to increase business confidence in recruiting new staff, reduce compliance costs, expedite resolution of workplace disputes and provide greater choice for employers and employees.

Changes include:

- The extension of the 90 day statutory period to all employers, not just employers with less than 20 staff as per current conditions. This will protect employers from unjustified dismissal claims. However, any complaints regarding issues of discrimination, sexual or racial harassment or unjustified disadvantage will be dealt with accordingly.
- Revising the test of justification for an employer's actions, including dismissal, under section 103A of the ERA to 'whether the employer's actions and how it acted were what a fair and reasonable employer could (rather than would) have done in all the circumstances at the time'. This revision acknowledges the range of possible reasonable responses an employer can take in different circumstances.
- Adding in new statutory minimum requirements of a fair and reasonable

process to reduce the importance of procedure in dismissal and disciplinary situations. This measure is in accordance that an employer's processes should not be subject to pedantic scrutiny with regard to minor deficiencies, otherwise considered justifiable.

- The ERA will be able to screen out and reject 'frivolous or vexatious cases' at an early stage.
- The ERA will also be able to cross examine witnesses in investigations. Penalties may be imposed on those who delay or fail to attend investigation meetings.
- Reinstatement will be removed as the primary remedy for unjustified dismissal, yet keeping it as a possibly remedy in dismissal cases

Holidays

The amendments made to the Holidays Act 2003 aim at providing more choice for employers and employees.

Changes include:

- With a written agreement between employees and employers, employees will be able to exchange up to one week's annual holidays for cash. Employers need not give reason for refusal and this provision cannot be raised in salary negotiations
- Calculating payment for sick leave, bereavement leave, public holiday or alternative holidays against an "average day pay" will no longer apply to employees with irregular hours of work and pay. Rather, it will be calculated by averaging gross earnings for the preceding 52 weeks (or whatever lesser period the employee has been with that employer)
- Employers and employees will be able to agree to transfer a public holidays to another identified working day according to a number of criteria set out in the Bill. Employers can adopt a policy preventing such transfer.
- Maximum penalties for non-compliance with the Holidays Act will double from \$5,000 to \$10,000 for individual employers and from \$10,000 to \$20,000 for union or corporate employers.

The Bills have been flagged as an opportunity to produce fair, pragmatic and flexible employer and employee relations.

After their first readings, they will be referred to the Transport and Industrial Relations Select Committee. Enactment is expected later on this year.

IRD new compliance plans



Each year IRD announces areas that may be a risk to the government's revenue base and compliance plans for the coming year.

This year's compliance programme has five key themes:

- ensuring everyone pays their fair share
- focusing on taxpayer in the hidden economy

- getting it right at the source
- actively managing tax debt
- improving online compliance

Small and medium enterprises (SMEs)

IRD will continue to contact businesses early when payments become overdue and will continue to work with businesses to manage tax payments and pay tax debts early.

Specific issue that will be targeted include:

- businesses operating in the cash economy
- property developers and others that earn income from property transactions
- typical errors made by businesses when reporting losses.

Employers

Employers are increasingly filing employer monthly schedules online.

Issues IRD will be targeting include ensuring:

- employer monthly schedules are filed accurately and promptly
- employers meet their KiwiSaver obligations.

WEB WATCH

ESSENTIAL SITES FOR BUSINESS OWNERS

www.clickz.com

ClickZ – News and information for the digital marketer. Excellent source of news and ideas for anyone looking to improve their internet marketing activity. Site includes material for web, email and social marketing.

www.brooksgroup.com

The Brooks Group – Sales and management. Commercial site that has a range of resources which are practical and can be used by a sales manager of a business of any size.



REMINDERS FOR YOUR DIARY

AUGUST

- 30 GST return and payment due for periods ending 31 July.
- 30 Provisional tax instalments due for people and organisations with a March balance date.

SEPTEMBER

- 20 Employer deductions (IR 345) form and payment due and Employer monthly schedule (IR 348) due.
- 28 GST return and payment due for periods ending 31 August.

OCTOBER

- 20 Employer deductions (IR 345) form and payment due and Employer monthly schedule (IR 348) due.
- 28 GST return and payment due for periods ending 31 August.

Source: IRD

A great read

Fish! A Remarkable Way to Boost Morale and Improve Results

Stephen C. Lundin, Harry Paul, John Christensen

This book is based on a management parable that draws its lesson from an unlikely source—the local fish market. In *Fish!* the heroine, Mary Jane Ramirez, recently widowed and mother of two, is asked to engineer a turnaround of her company's troubled operations department, a group that authors Stephen Lundin, Harry Paul, and John Christensen describe as a "toxic energy dump." Most reasonable heads would cut their losses and move on. Why bother with this bunch of losers? But the authors don't make it so easy for Mary Jane. Instead, she is left to sort out this mess with the help of head fishmonger Lonnie. Based on a bestselling corporate education video, *Fish!* aims to help employees find their way to a fun and happy workplace. While some may find the story line and prescriptions—such as "Choose Your Attitude," "Make Their Day," and "Be Present"—a little trivial, many will find a good dose of worthwhile motivational management techniques.

Those who have read other books like *Who Moved My Cheese?* will find a great deal to like here with this easy to read book.

We are sometimes asked if we are able to help additional clients. We are a growing firm and do appreciate your referrals. We consider it a compliment when you recommend us to your friends and business contacts.