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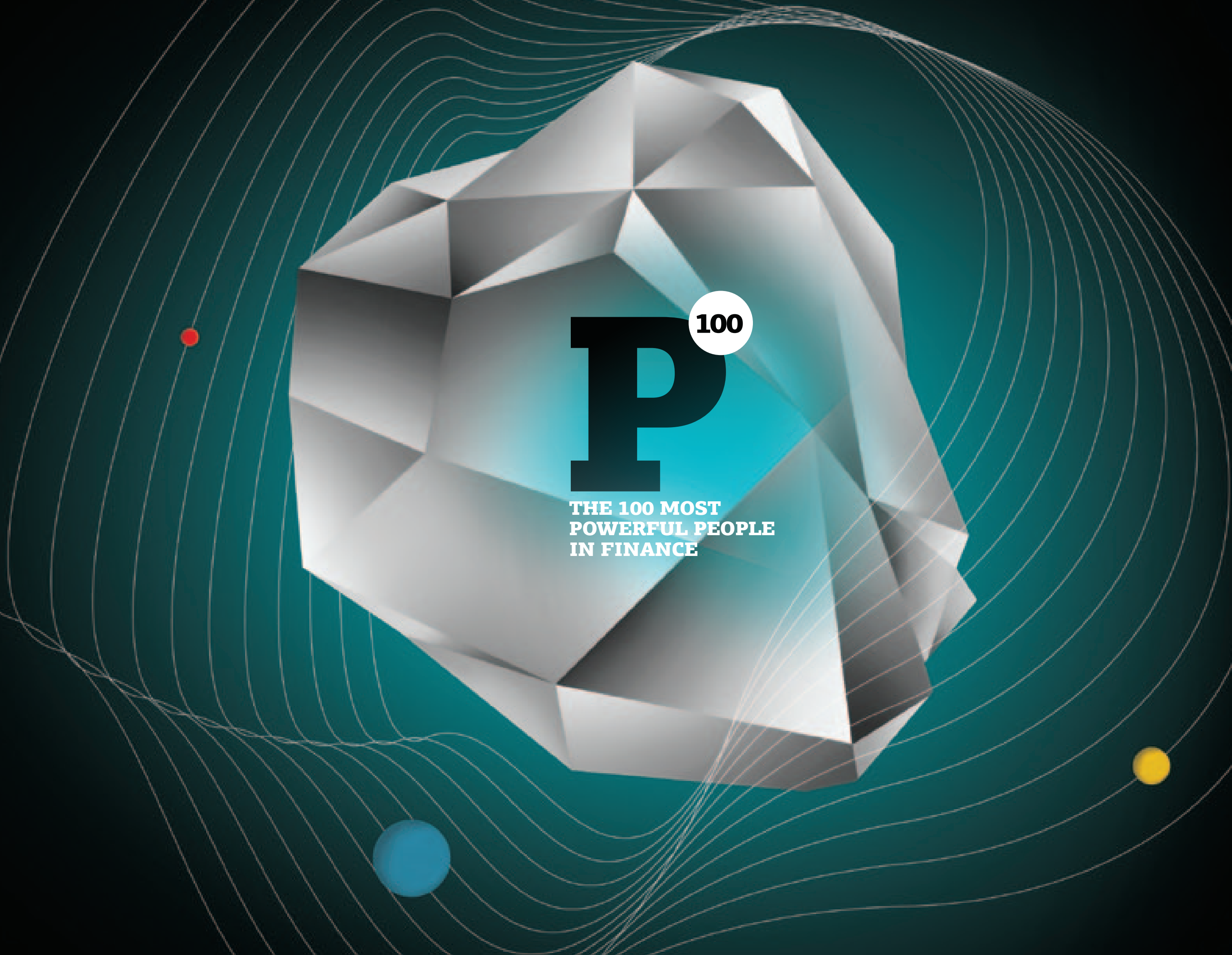

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LLBH Private Wealth Management LLC
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"What are some important pre-sale considerations for business owners?"

By Bill Loftus and Sarah Simon

When a business is up for sale, closing the deal is often the top priority for the owner—understandably so, because for many owners, the business itself represents the largest asset on his or her personal balance sheet. While closing the deal is important, as owner, you should also consider how this sale will affect your family's financial scenario. Important considerations include tax-planning opportunities which, if ignored, might result in significant lost income, gift and estate tax savings.

The three pillars of an effective wealth planning strategy are the timing of the valuation, the timing of the gift and discounting. These pillars, combined with effective tax planning strategies and appropriate gifting techniques, will ensure that money is not left on the table during a sale.

VALUATION

For many owners, the valuation of a business obtained in advance of a sale may be significantly less than the ultimate sale price. Since estate and gift taxes are based on the fair market value of assets at the time of transfer, owners should take advantage of lower valuations, to shift wealth to family members at a lower cost.

The crux of any pre-sale planning is the appraisal. Appraisals of closely held business interests take into consideration discounts for lack of marketability and control. However, once a business is sold to an unrelated third party, the opportunity to apply a discount to the sale price is no longer available. Therefore, have the appraisal done as early as possible in the process.

TIMING

Transfers should be completed as far in advance of the sale as possible. The closer the transfer occurs to the sale, the more likely it is that the IRS will successfully argue that the sale price reflects fair market value at the time of the gift. There is no concrete test the IRS has provided. But it is important to look at factors that determine the certainty of the sale taking place, to discern whether the valuation is accurate.

DISCOUNTING

Court cases reveal that the valuation of closely held entities is a judgment call that relies upon expert opinion. Courts and the IRS have recognized discounts for lack of marketability and lack of control. However, though no clear test has been established; specific circumstances are examined in each case. Discounts for lack of marketability and lack of control range from 13 percent to 59 percent, according to studies, and courts have accepted discounts in this range under different circumstances.

TAX PLANNING STRATEGIES—RESIDENCY

Business owners in high-income-tax states sometimes change their residency for income tax purposes prior to a sale to avoid state income tax. New York, New Jersey, and California have some of the highest tax rates; no-income-tax states include Florida, Nevada and Washington. The requirements to establish a new domicile for income tax purposes are state specific, tedious and complex, so consult state-specific counsel.

There are also numerous planning strategies to transfer wealth using discounts that range from intentionally defective grantor trusts to family limited partnerships. The benefits include not only shifting the present value of the shares out of your taxable estate but also future growth. Determining which strategy—valuation, timing or discounting—is optimal for you requires thoroughly understanding your family's current financial landscape and goals.

We can help you utilize the gifting strategy that best fits your needs and maximizes the sale of your business. Benjamin Franklin once wrote, "Nothing is certain but death and taxes," and he was right. But another certainty is that by actively engaging in pre-sale planning before you sell your business, you can increase the odds that you will have a successful exit.

Past performance is no guarantee of future results. There is no guarantee the views and opinions expressed in this article will come to pass. LLBH Private Wealth Management, LLC (LLBH) is an SEC registered investment advisor located in Westport, Conn. For additional information about LLBH, send for our disclosure brochure using the contact information herein.

"The three pillars of an effective wealth planning strategy are the timing of the valuation, the timing of the gift and discounting."

—Bill Loftus

How to reach Bill Loftus

I look forward to discussing how I can help you reach your financial goals. I can be reached directly at 203.683.1528.

Left to right: Jim Pratt-Heaney, Bill Lomas, Kevin Burns, Bill Loftus

Who Are Our Clients?

LLBH Private Wealth Management is a Registered Investment Advisory (RIA) firm, created to work with entrepreneurs and senior executives who became wealthy because they made great decisions. Our disciplined process ensures that we see the complete picture of your financial situation so that we can make informed and suitable recommendations to help you accomplish your goals and objectives. Our process also works for those who have been thrust into decision-making roles due to life-changing events such as retirement, the sale of a business, a divorce or a death in the family. Just as they do in their professional lives, our clients want a thorough and candid process in order to make smart decisions about their financial lives. Simply put, LLBH clients respect our ability to get things done.

Assets Under Management
$1.1 billion

Minimum Fee for Initial Meeting
None required

Minimum Net Worth Requirement
$10 million (investment services)

Largest Client Net Worth
$500 million

Financial Services Experience
120 years (combined)

Compensation Method
Asset-based

Primary Custodian for Investor Assets Pershing, A BNY Mellon Company

Professional Services Provided
Planning, investment advisory, money management, advanced wealth transfer planning and corporate services

Association Membership
Investment Management Consultants Association

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