What to Buy and When to Sell ...  

*Tom and Matt Embrescia and the Art of the Deal*

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“Business, more than any other occupation, is a continual dealing with the future; it is a continual calculation, an instinctive exercise in foresight.”

— **Henry Luce**, founding publisher of *Time, Life, Fortune, Sports Illustrated* and many other magazines
The magazine magnate Henry Luce was right — business is a continual dealing with the future, a calculated and instinctive exercise in foresight.

Many of us are fond of saying, *If I only knew then what I know now*. But in business, you make decisions about the future in the real time of now.

Contrary to popular belief, our current business and tax climate is ripe with opportunities for the future. New regulations in the American Taxpayer Relief Act of 2012 and the ongoing implementation of healthcare reform are creating exponential opportunities for entrepreneurs and privately held businesses to create competitive advantages. If you and your advisors are not looking ahead to identify new possibilities, you are probably missing some.

This issue of *Taxonomics* features business leaders with a studied instinct for knowing when to green light an opportunity, when to hold for more due diligence or when to pass altogether. Take for example our story about Northeast Ohio’s media magnate turned serial entrepreneur, Tom Embrescia. You’ll be struck how often he has the foresight to pull the trigger on a deal at the right time.

Our profiles on Tim Remington of Remington Products and the Kurz family of HoneyBaked Ham fame also demonstrate timing and business decision-making at its best.

If you and your advisors are not looking ahead to identify new possibilities, you are probably missing some.

And our story on Maximized Living shows how looking to the future of technology has helped Shel Hart’s organization rise to another level of productivity.

I hope this issue of *Taxonomics* provides you with insight to continue seeing each new regulation, reform measure or other potential roadblock as the opportunities they very well may be.

Call or email me anytime to discuss opportunities for your business: 216.774.1102 or rmyeroff@cohencpa.com. Or let me know your thoughts on *Taxonomics* or other ways we can add value to your business.
In America, it seems that tax reform is often debated yet rarely achieved. The general consensus is that the U.S. corporate tax rate is too high compared to rates in the rest of the world. For example, most countries have what’s known as a “water’s edge tax.” In other words, if you make money beyond their shores, that income is not subject to the local tax. Not the case in the U.S. This is just one of many hot issues in our country’s ongoing discussion about tax reform.

The last comprehensive federal tax reform was a generation ago — in 1986, during the Reagan presidency. Of course, there’s also a definitional challenge — one person’s reform is another’s retreat. In any event, the resurgence in the call for tax reform led us to ask Cohen & Company’s technical tax director Tony Bakale about his thoughts on the tax reform discussion.

Taxonomics: There are so many different tax reform packages being offered up as alternatives to our current system. Three that come to mind are the value-added tax (VAT), financial transaction tax and the flat tax. What do you think of the VAT?

Tony Bakale: The VAT is a tax on the value added to an item at each stage of production. Most people consider a VAT tax to be regressive, meaning that the lower-income earners, because they spend a higher percentage of their income on taxable goods, would pay a greater percentage of their income on a VAT tax than a wealthier individual. However, the nice thing about a VAT tax, from a government standpoint, is that when the economy takes a hit, income from taxes does not decline so dramatically. The VAT tax is tied more closely to the GDP, which generally does not drop by vast amounts even during a recession. It’s a much more reliable source of income for the government. I would envision maybe combining a VAT tax with an income tax, so that it’s less regressive. Where you could offer credits to low-income earners.

Taxonomics: There’s been talk recently about a possible financial transaction tax, taxing specific types of monetary transactions, along the lines of what many European nations have. Why is this on the table?

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Tony Bakale: You do pay a fee to the government on every financial transaction, so we actually already have one. It’s just so small that hardly anybody notices. I believe the thought behind a new fee is to slow down some of the churning that occurs in the market, because with a financial transaction tax, traders are less likely to churn their accounts.

Taxonomics: Let’s talk about that perennial subject that comes up whenever tax reform is mentioned — the flat tax. Is a move in that direction realistic?

Tony Bakale: The issue isn’t whether or not a move is realistic, the issue is whether it’s a move at all. What makes the current system so complicated is not the multiple rates per se, but calculating the amount of income upon which the rates are applied. A flat tax is essentially levied on some definition of the income, as opposed to a consumption-based tax. The idea is you flatten the rates, from the 11 or 12 rates we now have, to maybe two rates, and eliminate all or at least most of the deductions. So you’re paying taxes on a gross amount. The key is the simplification.

Taxonomics: Looking at our current regime, the alternative minimum tax, or AMT, has been a thorn in the side of many taxpayers. Is it functioning as it should?

Tony Bakale: The AMT is exactly that: an alternative system. It’s actually the closest thing we have to a flat tax. You have fewer, or lower, deductions, both at the personal and corporate level. Even though there are many proponents of a flat tax, the AMT has not been very popular. It reminds us all to be careful what we wish for.

Taxonomics: Capital gains is another tax that has been very contentious over the years. Is there a smarter way to tax capital gains, from your perspective?

Tony Bakale: If I could wave a magic wand and implement changes, while it would complicate things, I would base the capital gains tax more on how long you’ve held the security. And that’s kind of the theory behind having long-term and short-term rates. The longer you hold it, the lower your rate is, under the theory that inflation has eaten up some of that gain.

Taxonomics: Another hot issue is the estate tax. After several years of uncertainty, Congress has just reset it. Do you think it will remain stable for the time being?

Tony Bakale: I think so. We now have a $5 million exemption and a top rate of 40%. So at this point, those who are paying the estate tax are really only the super wealthy — the top one-tenth of 1%. I don’t see a lot of movement to peel that back in the next few years, especially the next four years. If anything, I think the government will be paying attention to tightening up some of the tools used in estate planning versus a complete overhaul.

Spark your own lively tax reform debate with Tony. Contact him at 216.774.1147 or tbakale@cohencpa.com.
Love and the Business of What to Buy and When to Sell

A profile of Tom Embrescia, the happily successful serial business owner

(And how his son Matt is taking Second Generation to the top level)

Tom Embrescia has bought and sold more businesses than most people have been on dates. So, what he looks for when evaluating a business to buy may seem counterintuitive.

“I look at a business the way I would at a wife. I have to fall in love. I have to assume we will be staying together forever,” says the serial entrepreneur who has seemingly mastered the art of what to buy and when to sell.

Embrescia has owned and managed over 50 radio and television properties, several in Cleveland, but also in Iowa, Milwaukee, St. Louis, Indianapolis, Los Angeles, Chicago, New York and elsewhere. And at an age when his contemporaries are winding down or retired, he’s still full throttle, not only
in media, but now also in manufacturing, information technology, medical technology, real estate and more.

“I’ll get these calls from buddies in Boca Raton or wherever,” Embrescia says with a laugh, “and they’ll say, ‘Get down here to the good life.’ And I say, ‘I know why you’re calling. Misery loves company.’”

His passion for deal making is as strong today as it was in 1978, when as a 28-year-old he talked Barclays bank into helping him leverage a $4.5 million radio property buyout. He admits the years have brought one change.

“It was Ron Cohen (Cohen & Company’s founder) who taught me that I could do all the deals in the world, but what matters in the end is what you keep,” Embrescia recalls. “But, now it’s not so much what I keep. It’s what I can pass on.”

scholarship. Upon graduation, he had a solid job offer from Proctor & Gamble — but the allure of the red convertible lingered. It was back to Cleveland for a job in radio sales.

Soon he met Nick Mileti, who enticed Embrescia out of radio and into managing sales for the Cleveland Barons hockey team. “I was a sales manager with no staff,” Embrescia recalls, laughing at Mileti’s storied, charming hubris. Mileti founded the Cleveland Cavaliers, built the Richfield Coliseum, briefly owned the Cleveland Indians and was a renowned master of leverage who taught Embrescia about the art of the deal.

Still, it was Embrescia who convinced Mileti to buy a pair of Cleveland’s AM and FM radio stations for $1.5 million. At the time, FM stations were less desirable than AM, due to a generally weaker signal. But, in a classic Embrescia right-time, right-place scenario, the FCC soon mandated that all FM stations be converted to a higher band of spectrum.

Beginnings

When Embrescia was a sophomore at Bowling Green State University, his older brother came to visit, pulling up outside the dorm in a red Mustang convertible. “All the girls came out and were looking at his car and I said, ‘Where did you get that?’ And he told me, ‘I’m selling radio air time.’”

Growing up in a working-class Cleveland neighborhood as the son of a carpenter, Embrescia went to Bowling Green on a

Embrescia with some of his staff at Cleveland’s Sound 87.7 FM. Despite significant diversification in his entrepreneurial activities, Embrescia can’t quite keep away from radio, his first love.
Mileti allowed Embrescia to engineer the divestiture of the suddenly more valuable pair of stations for $6 million, and provided Embrescia with a $600,000 commission.

Also in classic Embrescia fashion, the 28-year-old did not tuck away the windfall or celebrate by purchasing a big house. He took $450,000 and leveraged it through Barclays to buy the first two of his own radio stations. Thus began a dizzying ride of buying and selling radio stations, and then TV stations, nearly always creating a trailing wake of profit and value.

Mileti was a renowned master of leverage who taught Embrescia about the art of the deal.

Timing is Everything

Two deals punctuate the many successes. In 1984, Embrescia took out a sizeable loan to buy and upgrade an independent TV station in Toledo, Ohio. In 1987, an Australian media magnate named Rupert Murdoch created FOX, the nation’s fourth network. Not only did Embrescia make the Toledo station into a FOX affiliate, he also bought three other independent stations in markets without FOX affiliates and turned them all into cash cows.

In 1998, when the FCC eased rules regarding multiple station ownership, Embrescia brought three Cleveland radio ownership groups together to engineer a deal to sell the stations as a group to a Texas-based media firm for $275 million.

“We wanted $250 million. We would have settled for less. I asked for $300 million,” Embrescia recalls. “The owner of one of the groups choked on a cookie he was eating when he heard me ask for $300 million. There was a pause and they said, ‘Well, that’s a little high. Would you consider $275?’”

In the midst of this flurry of buying and selling, Embrescia met Ron Cohen and switched his accounting work from a national CPA firm to the regional, but rapidly growing, Cohen & Company. Embrescia can recount many examples of the value of the firm’s recommendations and strategies, including collaborating with Randy Myeroff,
Cohen & Company’s CEO, on leadership transition and divestitures. One early example stands out for Embrescia.

“I bought a Milwaukee station and changed the format from classical music to rock. I knew nothing about classical music at the time and said, ‘Hey, throw out all of those old classical records — let’s get that crap out of here and make some room.’”

“But Cohen said, ‘Uh, Tom, I think you should have those appraised.’ It turned out they had a value of $500,000. So, we donated it all to the University of Wisconsin and Ron engineered a significant tax deduction. To this day,” he says with a shake of his head, “they refer to it as The Embrescia Collection.”

The Ultimatum

Tracy Monroe, a partner of Cohen & Company, is a tax guru’s tax guru — frequently speaking and writing on tax issues for her CPA peers. Still, in 2002 when she was asked to manage the Embrescia account, she was a bit startled by her new client’s first question to her.

“Tom said, ‘Tracy, how can you save me one million dollars?’” she recalls. “I said, ‘Um, that’s interesting. I’ve never been asked that before.’ But, being competitive, I thought, ‘Okay, I’m going to do it and I’m going to keep track.’”

“I always start any work for a client with three things in mind,” Monroe says. “Here are the facts I can’t change. Here’s what we can impact. Here’s the outcome we want to try to achieve.”

And Monroe had plenty of opportunity to impact outcomes. The varied nature of Embrescia’s businesses throughout the years has allowed Monroe and her team to find tax-savings opportunities in the structuring of sale transactions, in state and local tax, and in the application of certain gifting techniques.
Eleven years after Embrescia’s challenge to Monroe, the two agree that Cohen & Company has helped Embrescia save approximately eight times the initial $1 million goal.

While achieving $8 million in tax savings is not typical for every client, Cohen & Company is diligent in collaborating with clients and colleagues to uncover promising opportunities through the entirety of the relationship.

And opportunities, of course, are something that Embrescia has always relished. While he is still in the media business, he actively began diversifying in 2002 and today is more focused on ownership roles in manufacturing, the commercialization of medical technology (often in partnership with Cleveland Clinic Innovations, the Clinic’s corporate venture arm), and in the expansion and monetization of top-level domain names (see sidebar below).

All of those opportunities are now also seen through the lens of not what he can keep, but what he can pass on — to his children and grandchildren and through the family’s active charitable foundation.

“We’re already teaching our eight grandchildren the basics of stocks and bonds and financial planning. We want them to be prepared to do well and do right.”

In the meantime, Embrescia plans to continue to seek new business ventures, looking for businesses that ideally meet his key three criteria: 1) It requires fixing up or is undervalued in some way; 2) It has some strategic competitive advantage, such as licensure or patent; 3) Something about it just evokes that feeling of falling in love, all over again.

To discuss what you’re passionate about, contact Tracy Monroe at 330.255.4357 or tmonroe@cohencpa.com.

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Matt Embrescia and Second Generation’s Top-Level Domain Future

Matt Embrescia spent the first eight years of his career in media. But, it wasn’t for one of his father’s, Tom Embrescia, companies. “I didn’t want to work for my dad straight out of college,” says Matt. “My dad’s version is that I needed to go out into the world first and get my ass kicked.”

Matt now serves as the president of the family’s primary holding company, Second Generation, but spent time first in New York, Atlanta, Chicago and San Francisco in media sales and management. In San Francisco, standing on the deck of a rented aircraft carrier with thousands of other employees of the just-merged Comcast and AT&T cable units, Matt had his epiphany.

“I had experienced some success, but I could literally see I was one small cog in a giant machine. So, I called my father and suggested it was time to come back home and bring the next generation’s passion to the family business.”

Today Matt is involved in some way in all the holdings. His focus is in Second Generation’s immersion in the race to expand the role of a new wave of top-level domains, or TLDs. (A TLD is one of the domains at the highest level in the hierarchy of the Internet’s Domain Name System — such as .com or .net.)

For instance, the Embrescias are involved in a partnership authorized to sell the right to site names that want to utilize the .jobs domain name. This includes verticals within industries like healthcare, e.g., nursing.jobs, to geographical versions such as cleveland.jobs. With an Embrescia at the helm, the possibilities are seemingly endless. For more information, go to www.goto.jobs.

Contact:
tmonroe@cohencpa.com
NO MATTER HOW YOU SPIRAL SLICE IT

Driving the Evolution of THE HONEYBAKED HAM COMPANY BRAND
Harry Hoenselaar was undaunted despite the fact that every company he approached rejected his odd-looking invention. Sure, the prototype was built of household items, including an automobile jack, pie pan, kitchen knife and the motor of an old washing machine. But it could continuously spiral slice ham off the bone until the cows — well, pigs — came home.

And two large meatpacking companies said that if Harry got his machine patented, they might buy it. So, Harry did — but they didn’t.

Thus, with no buyers, two patents and a signature sweet glaze, Harry the inventor opened up the first HoneyBaked Ham Company store in Detroit in 1957.

And the customers literally lined up in droves. Or, at least they did so every Thanksgiving, Christmas and Easter.

The napkin upon which Harry Hoenselaar first drew his vision for the continuous spiral slicing machine that helped create one of America’s favorite food brands.

“RISING TO THE GENERATIONAL CHALLENGE”

Before his death, Harry divided his company into four divisions, one for each of his daughters and their husbands. Each received a geographical slice of America in which to open their own family-owned stores.

So far, so good — under the third generation, HoneyBaked Ham has expanded nationally from 289 stores under the second generation, to approximately 460 stores (featuring luncheon menus far beyond hams alone), plus over 200 seasonal kiosks in grocery stores.

For Harry’s grandchildren, the public affection for the brand they’ve inherited represents both opportunity and challenge. The public has a more than 50-year-old purchasing relationship with the beloved brand; but, until relatively recently, many only considered it during the holidays and associated it exclusively with ham.

“How do we evolve from an occasion driven brand to a lifestyle brand?” says Craig Kurz, Harry’s grandson and CEO of the Ohio Division, which has stores in 10 states. “Our core vision is not selling hams, it’s creating ‘Best of Category’ products.”

Continued on next page
There’s an ongoing task of achieving consensus in how the brand is represented at every consumer touch point.

“One challenge is to make it easier for customers to interact with the brand, to make it more convenient for them — like offering smaller portions of our products in grocery stores,” says George Kurz, brother of Craig and president and CFO of the Ohio Division.
The Gift That Keeps on Giving (Up to Two Years Down the Road)

According to CEB TowerGroup, which researches gift card usage in the United States, gift cards are “shifting from last resort to first choice.” Approximately $110 billion was loaded onto gift cards in 2012, up from about $90 billion in 2009, and it’s expected to grow to $138 billion by 2015.

Gift cards — sold through stores, online or via catalog — are an increasingly important revenue driver for many companies, including HoneyBaked Ham.

“Gift cards are accounted for on a cash basis, meaning that they are usually treated as a taxable event upfront,” says Dave Sobochan, Cohen & Company’s lead tax partner on the HoneyBaked Ham account.

“However, IRS regulations allow you to recognize gift certificate income up to two years after a card has been purchased. We identified this deferral as an opportunity that could really benefit HoneyBaked, and then helped them take advantage of it,” says Sobochan.

And while Harry’s decision to divide the business among his daughters made family sense, it can present business challenges. Because the families act as distinct ownership groups from a legal and operating standpoint, there’s an ongoing task of achieving consensus in how the brand is represented at every consumer touch point.

“We all know it’s important to pull the families together to align for the best of the brand,” says Craig, who also serves as president of the National HoneyBaked Ham Board of Directors.

KEY #3: DEALING WITH INCREASED COMPLEXITY

There’s an enduring simplicity in the quality brand promise of HoneyBaked Hams. For example, though you can now find spiral sliced hams elsewhere, the Kurz brothers say that an inferior ham, no matter how their competitors slice it, makes for an inferior product.

But, substantial business success almost always means increasing legal and financial complexity that can lead to significant tax dilemmas.

Take the distinct family ownership groups that date from the founding of HoneyBaked Ham, then add major acquisitions (including the purchase of Heavenly Ham, the franchisor of 200 Heavenly Ham franchises), franchisees (200 and counting), partnerships, LLCs … and you have a myriad of potential tax issues relative to what’s best for the owners.

Continued on next page
what’s best for the entities and simply how to minimize the associated tax burden.

A key move for HoneyBaked’s Ohio Division was the hiring of Cohen & Company. “We switched to Cohen & Company about the time we went into franchising,” says George Kurz. “We had a need for more sophisticated accounting services, like specialized resources and access to more expertise.”

“We have all these different businesses and corporate structures, some of which have losses, some of which have gains, lots of things to take into account. Cohen helps us take advantage of the things that are on the books in a way that minimizes the amount of taxes and frees up capital to invest in growing the business.”

George sees benefits beyond taxation issues in working with a sophisticated business partner like Cohen & Company. “I can’t say enough about Nevin Nussbaum and Dave Sobochan, the partners assigned to our account. Periodically, we’ll spend a day with them to go over planning issues and general business matters.”

“It’s not just about law and regulations, but about what you want to be as a business. Do you want to sell or pass along to the next generation? It’s about the ability to deal with someone that is deeply embedded in the business, which allows us to make much more educated decisions.”

Looking for a CPA firm with the depth of resources you need for your growing company? Contact Nevin Nussbaum at 330.255.4321, nnussbaum@cohencpa.com or Dave Sobochan at 216.774.1163, dsobochan@cohencpa.com.

To make its signature slice, a HoneyBaked ham is firmly affixed, on the top and bottom, to a rotating base, which is gradually lowered as a blade is applied, creating one single continuous slice around the bone.

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The Health Care Reform laws passed in 2010 included a new 3.8% Medicare surtax on the net investment income of certain individuals, estates and trusts. With the new tax in effect since January 1, 2013, tax professionals say now is the time to begin looking at how it will affect your financial picture.

“It’s been a little bit of a quagmire, because in addition to the Medicare surtax, Congress changed the tax rates,” explains Natalie Takacs, a senior tax manager at Cohen & Company. “So some people are not subject to the higher tax rate but they are subject to the tax surcharge, and some people are subject to both.”

Last November, the IRS issued 159 pages of regulations on the surtax, regulations that only scratched the surface of information needed to properly apply the law. Practitioners at Cohen & Company are continually analyzing what these regulations could mean for clients. Here are some key issues to consider.

Pay Attention to Trusts
“One thing to keep in mind is that for trusts, the higher tax rates and the tax surcharges kick in when the trust earns $11,950,” Takacs explains. “We’ve been reaching out to all our clients and saying, ‘let’s take a look at how those trusts are structured.’”

Owners of closely held businesses structured as S corporations will be exempt from the surtax as long as they materially participate in the business. “So one of the planning goals is to examine participation in the business.” There are several tests to judge whether there is material participation, but the most typical is that the owner works at least 500 hours in the business in any year. “And remember, as with many great planning ideas, you’ll have to start now, because December will be too late.”

Reducing Investment Income
Takacs says that before you jump through hoops, “you definitely want to look at the composition of your income and see what would happen if you stay the course.” If the tax is significant, there may be opportunities to minimize the burden. There are a number of ways to cushion the blow and limit your exposure, from alternate forms of insurance to annuities. One such option is to work with your financial planner to change the character of the income, such as shifting your portfolio from taxable corporate bonds to tax-free municipal bonds. Or you could change the timing of income, such as electing to recognize gains via installments or converting traditional IRAs to Roth IRAs. Intra-family planning to shift income from one taxpayer to another is another way to minimize exposure to the new tax. “There is a whole range of techniques that allow you to change the timing or the character of the income,” Takacs adds.

The takeaway from all this? To properly adjust to the changes, you may need more than minor tweaks to your overall financial picture. It might instead call for possible structural changes. As always, the earlier you adjust, the better off you’ll be. &
FINDING THE RIGHT FIT

Manufacturing orthotic shoe inserts.
Evaluating acquisitions.
Restructuring his company’s ownership.

How Tim Remington sizes up his biggest business decisions, and never compromises culture.
Culture is always a reflection of the leadership of an organization, for better or worse. But, even under enlightened leadership, “camaraderie” and “personal warmth” aren’t words normally used to describe a manufacturing facility’s culture.

In the brutally competitive global economy, successful manufacturing is about micro-timed processes and razor-thin margins, which make the highly relational culture at Remington Products in Wadsworth, Ohio, all the more remarkable.

That culture is clearly a consequence of the deliberate priorities of Tim Remington, the third generation of his family to lead the company. In fact, Tim has led the company — a custom manufacturer of engineered foam products — to higher levels of profitability while making business decisions aligned with his personal views of what matters most in life and business.

Founded in 1934, Remington’s customized foam products have safety, industrial, sporting good and even military applications, but nearly 75% of revenues are related to the footwear industry.

The concept of mutual responsibility between the family ownership and long-term employees has always been a constant, helping the company when it went through tough times in the late 70s and 80s as many of its domestic shoe-manufacturing customers were going out of business or overseas.

While not every acquisition has worked out, Tim attributes Remington’s overall solid track record to “never really looking for an acquisition — most have come to us.” His underlying precept: if you set out to acquire other companies, you feel compelled to succeed in your mission even when the fit is not right.

Yet, Tim has shown he’s willing to take risks. With the purchase of Stable Step three years ago, Remington acquired the Powerstep brand, a line of higher-end, ready-to-wear shoe orthotics available in specialty retail stores and podiatrists’ offices. For the first time, Remington Products is in the consumer marketing business — a paradigm shift at which many manufacturers fail.

“We value our customers but we didn’t want customers alone dictating our destiny,” says Rhonda Newman, Remington’s recently named and marketing-savvy president.

Tim attributes Remington’s overall solid track record to “never really looking for an acquisition — most have come to us.”

By controlling costs and hanging on while competitors folded, and then making strategic acquisitions, Remington more than endured. Today, it perceives it has only one direct competitor, though a significant one, which Tim calls “the company of China.”
“A customer might make the decision to focus solely on cost, not quality, and eliminate us as a supplier. With Powerstep, we are controlling the whole process, from design to manufacture to marketing and sales. We’ve essentially become our own customer.”

Given the brand’s impressive growth in sales thus far, acquiring Powerstep may prove to be the company’s most defining move.

But, one other recent decision by Tim Remington rivals the Powerstep acquisition for defining the company’s future. Remington Products is no longer owned by individuals with the last name of Remington.

The sole shareholder is now what is referred to as an ESOP (Employee Stock Ownership Plan).

“”It was absolutely the best move for the future of this company, because our culture already lent itself to the ESOP concept.””
In explaining why he made this move, Tim first recounts the look on the face of a friend and manufacturing facility owner who had recently sold his business to a financial buyer. “He was crushed,” Tim says as he walks the production floor of the Wadsworth facility, routinely greeting employees by their first names. “The buyout firm got rid of a huge amount of the long-time workforce, many of whom he considered his friends. I’m not sure what he expected, but it wasn’t that.”

“So, a few years ago, when I really started thinking about ‘What am I going to do with this company?’ I considered an ESOP as an option.”

Mike Kolk, a Cohen & Company tax partner who was involved in structuring the ESOP deal, is quick to say that, “An ESOP isn’t right for everybody. You’re giving up some control as well as directing future growth in equity to this qualified plan. Additionally, ESOP’s can be expensive to set up, add new complexity and have to be appraised annually.”

“I knew from the beginning it wasn’t going to get me the most money for the company,” says Tim. “But, it was an opportunity to sell while I was still young, create liquidity for the value I owned, keep the business in the building that I own — and, very importantly, keep the people who have worked for us for seemingly forever.”

Looking over the production floor employees, many of whom have 20-plus years at the company, Tim concludes, “It was absolutely the best move for the future of this company, because our culture already lent itself to the ESOP concept.”

“There can be distinct advantages to an ESOP,” says Kolk, “from a personal, financial and tax standpoint — for the right owner and company. It’s all about the right fit.”

To discuss whether Cohen & Company might be the right fit for your specific tax and business planning needs, contact Mike Kolk at 330.255.4315 or mkolk@cohencpa.com.

How companies benefit from being an ESOP

According to the National Center for Employee Ownership, approximately 11,300 companies are Employee Stock Ownership Plans (ESOPs).

ESOPs provide a company’s employees with an ownership interest. Shares are given and often held in an ESOP trust until the employee retires or leaves, at which time the shares are sold.

As Cohen & Company’s tax partner Mike Kolk notes in the accompanying story, ESOPs are not for everyone.

“In the case of an S corporation solely owned by an ESOP, such as Remington Products,” explains Kolk, “income is taxed to its shareholder. The shareholder is an ESOP, which pays no tax, therefore 100% of the company earnings is federally and, in most cases, essentially state tax free.”

“Without income taxes to pay, companies may enjoy an annual 30-40% boost in free cash flow/liquidity. Oftentimes, in the year prior to the sale of shares to the ESOP, we look for all kinds of tax deductions even if they will otherwise ‘turn’ in later years. We realize the benefits upfront in a taxable year and do not have to pay back the tax savings in the future.”

An ESOP provides another benefit for companies involved in acquisitions, Kolk says. “A 100% ESOP-owned company can accommodate more of a seller’s tax demands when structuring an acquisition, since there is no tax concern on the ESOP’s end. This can sometimes provide a crucial edge over other potential bidders.”
For Maximized Living, an innovative Florida-based franchisor of more than 80 chiropractic practices, the challenge was stark. How do you help young, fledgling chiropractors — most of them recent college graduates, with little or no grounding in financial matters — launch their practices with the kind of accounting and operational support that would help them better understand and grow their businesses?

When Shel Hart arrived at Maximized Living as the new president and chief executive officer four years ago, he realized that one of the major impediments to the company’s growth was that the various franchisees didn’t have a common financial language.

“They didn’t have a uniform way of putting together a chart of accounts, or a standard way of reporting metrics,” Hart explains. “They didn’t have a common nomenclature. Therefore, we needed a centralized source for accounting solutions, one that was cloud-based and could be rolled up and used anywhere. Not to micromanage them, but to help them make better decisions on their profitability and cash flow, and to build up the asset value of their practice.”
So about three years ago, the company began talking to Cohen & Company about how they might build a system that would serve all those needs. “Maximized Living has developed a sophisticated model to recruit chiropractors out of college and help them set up a practice, one that’s not just about treating patients, but about patient wellness,” says Cohen & Company tax partner Russell Goldberg.

These are busy practices. The average chiropractor might have 90 to 120 patient visits a week. But the average for Maximized Living is significantly higher. The doctors must always be patient-centric and focused on outcomes. They must also maintain strict compliance standards and ensure there is an appropriate level of profitability to serve their patients over the long haul.

The vision, says Goldberg, “was not that the business owner would have to download a spreadsheet and interpret the data, because they’re chiropractors, not accountants. Instead, the idea was that they’re going to be looking at a dashboard of indicators every day to check on a small number of key data points about the health of the business.”

Doctors traditionally don’t pay much attention to key operating indicators, Hart says. “So this system allows us to take data and synthesize it into a handful of critical metrics, such that the doctor can make better decisions on the future of the business.”

He likens it to the warning lights on a car dashboard. “I don’t need to be a mechanic to know that there’s a problem. Out of all those subsystems, there is only a handful of things that pop up on the dashboard to let me know I need to pay attention.”

So just what are those key performance indicators for a healthy chiropractic practice?

“The ultimate indicator of any business is cash flow, so that would be at the top of the list,” says Hart. “Too many people in business today, including doctors, live in a profit and loss mindset, and don’t really focus on cash. That can kill you pretty quickly if you don’t understand your cash position. The second [indicator] would be how efficiently they’re collecting money they’re owed, expressed as collections per visit. And then of course you have to understand your cost per visit.”

The paperless system, now in its second year of operation, also automates and streamlines accounting, bill payment, payroll and financial management from anywhere. It has improved operational reporting and provided greater internal controls and 24/7 accessibility to information, all “in the cloud.”

Hart says the system isn’t currently required for franchisees but will be eventually. “The more we can keep the doctor patient-centric and focused on outcomes, the more we can keep them present with that patient, and not having to become a tax expert or someone who understands accounting principles. With the cloud-based dashboard system, we can synthesize key financial data into an easy format and make it easier for them to stay focused on being a doctor.”

If you’d like to know more about cloud opportunities, contact Russell Goldberg at 407.937.2323 or rgoldberg@cohencpa.com.
Helping out in the local community has always been a core practice at Cohen & Company. And all employees, from staff to partners alike, take the opportunity to help others seriously. Take Nevin Nussbaum for example, an audit partner in the Akron office. He knows that getting involved in the community isn’t about accumulating credentials. It’s about taking a sincere interest in a good cause.

Nussbaum was recruited in 2009 to join the board of Pawsibilities® Humane Society of Greater Akron. Every nonprofit needs a good accountant on the board, and the organization figured that he might eventually serve as treasurer after learning the ropes. But a few months after Nussbaum joined the board, the incumbent treasurer unexpectedly left, and Nussbaum was asked to step into the role. The real challenge: the transition unfolded just as the group was moving from its rented facility in Peninsula into new space Pawsibilities® would eventually own in Twinsburg Township. For Nussbaum, this would be a baptism by fire. “I wasn’t expecting the position so soon, but I was definitely ready to roll up my sleeves,” he says.

Getting down to work, Nussbaum developed financial models that helped the organization understand its weekly cash flow and to more proactively plan for how owning space, rather than renting, would affect its financial situation. “Especially today, cash flow management is critical to ensuring the sustainability of any organization,” Nussbaum says.

He also helped formulate processes, brought structure to the accounting department, and provided short- and long-term planning for the organization.

Nussbaum is proud that his day-to-day professional skills could be leveraged to such crucial effect for an important community cause. “It also reinforced for me that being a leader isn’t always about leading. It’s about doing, too.”
Your civics textbook back in high school talked about how a bill becomes law, making its way through Congress and then onto the president for signature. But it probably didn’t cover an equally important related topic — the often messy process of federal agencies, such as the IRS, writing the rules that will help implement the law in the real world. That’s where things get interesting.

While it can take months for Congress to pass a bill, it can take years — sometimes even decades — for federal agencies to write the essential rules implementing the law. “These things can take a very long time,” says Cohen & Company’s Phil Baptiste, director of tax planning and compliance. “Passive loss rules were passed by Congress in 1986, and we are still waiting on some of the rules to address all of the related issues.”

In the quest to determine Congress’ real intent in passing any law, the focus falls on the report that accompanies the joint House-Senate conference committee, the group that meets to hash out differences in the bills passed by the two houses. Court battles and agency rulings sometimes are determined by a close reading of these documents. There’s even an entire industry tasked with disseminating information on how the rules work. Publishing houses send practitioners analyses and explanations of the law, sometimes within 24 hours after a law passes.

But until final rules are released, there is inevitably room for interpretation. “These rules from the agencies kind of dribble out, and there’s some subjectivity to it,” says Baptiste. “Until there is sufficient guidance, you typically try to make a reasonable interpretation, taking into account your client’s appetite for risk, and proceed with a path that seems to make the most sense for the particular situation.”

The process will surely be put to the test as the federal government labors to implement the massive Patient Protection and Affordable Care Act of 2010 (PPACA). The IRS recently issued rules governing the 3.8% Medicare surcharge, which taxes net investment income for high-income individuals. “But what people are struggling with is the definition of net investment income,” Baptiste says. “This is precisely the type of real-world nuance that agencies like the IRS work to clarify in the rules they write.” In the meantime, disputes — and sometimes even court proceedings — between taxpayers and the IRS over new legislation continue to be part of the process.
Becky Simmons warmly recalls her internship at Cohen & Company for several reasons: the tight bond she formed with her fellow interns, the wisdom provided by her learning buddy and the steep learning curve. “Everyone was just kind of shocked at what you can learn working in a firm as an intern. You learn a lot in school, but the learning curve really goes up when you get here.”

Today, Simmons is a staff accountant at the firm. But she’s also now a learning buddy, helping one of the current interns learn the ropes. Throughout the full-time program, interns are exposed not only to accounting work, but also to some less tangible experiences that are important to the firm — like community service and networking. “It is important for our interns to understand our culture and values and what will be expected of them if they join our firm after graduating,” says Hallie Sly, Cohen & Company’s human resources manager, who also oversees the internship program.

“Becky is a classic example of how the internship program should work; she integrated into our culture as an intern and then joined our team full time after finishing her degree,” says Sly. “To help make that transition from intern to staff successful, we have to give interns a well-rounded view of what public accounting is like, and more specifically, what it’s like to work here. The best way to do that is to treat them as full-time staff accountants, offering the same opportunities, responsibilities and real-time feedback.”

Admittedly, that can be a little unnerving at first. “When I entered our busy season, I was nervous about being thrown into the fire,” says intern Alex Dager, a student at Youngstown State University. “But the great work environment at Cohen & Company makes the hours fly by. And the amount of knowledge present in the office is amazing, so I am constantly learning.”

For his part, intern Drew Volbers from Case Western Reserve University was happy to find a different situation from what he was expecting. “The stereotype of a CPA is misleading. The environment here is engaging. There is always someone to share a laugh or a game of ping pong with when we need a break.”

What the interns might not appreciate just now is that the relationships formed with their mentors might well last for years. “We have a special rapport,” Simmons says of her former learning buddy. “Even though we’re colleagues now, I still go to him with questions.”

Cohen & Company’s culture revolves around the notion of “SQIF,” or Service, Quality, Innovation and Fun.
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