

Bains Watts & Co.

THE A TO Z OF
BUYING & SELLING
AN ACCOUNTANCY
PRACTICE

The A-Z of Buying and Selling an Accountancy Practice

Accountants

As you are an accountant you should not need reminding that all the necessary figures required to value the business should be up-to-date and accurate. The seller should co-operate to ensure that all relevant disclosures have been brought to the buyer's attention to ensure that the accounts show a true and fair view. The buyer will want to pore over the books and records as part of the due diligence process to help them understand the financial workings of the business being acquired.

Assets

The seller has to make it clear from the outset if there are any assets of the business that are not to be included in the sale such as personal assets or items they wish to take with them. The buyer needs to be satisfied as to whether they require any of the assets being offered or whether any additional assets will need to be purchased that have not been included in the sale.

Billing cycle

This is a period in which clients are normally charged. Typically, it is on an annual basis but for some practices it may be monthly or quarterly.

Brokers

Business brokers act as a matchmaker and negotiator for buyers and sellers, bringing them together in the market place via a website or by specialist marketing and networking. The broker will take a percentage of the sale price as a fee and may represent either or both of the parties. Experience shows that when the broker acts for both parties, a better result is achieved in a shorter period of time.

Business premises

Buyers and sellers need to agree as to whether any premises are being sold with the business and if they are not whether the buyer will be able to rent the premises. Buyers will need to consider carefully as to whether the premises are required and the ramifications of moving an established business from its existing premises.

Buyer beware

"Caveat emptor" is the Latin expression for "buyer beware". In simple terms this means that the buyer is taking a risk when making the purchase and must be satisfied that everything is in order.

Chemistry

This is one of the most important and often the most elusive areas of a business deal. We encourage early contact between the buyer and the seller to establish whether there is a rapport between them as they will have to work very closely during the sale and often for a number of months or *even* years after the sale. If the chemistry is not right, we normally advise the parties not to proceed unless a solution can be found to obviate the need to work together and even then, this would only occur where one or more of the parties is desperate for a deal, which would be reflected in the price.

Clawback

This is the period during which, if a client leaves, the buyer is refunded the relevant amount paid.

Comparables

This means establishing whether the price for the practice is in line with current market trends. There can be a variety of reasons why the price is not in line with comparable firms, but it is essential that all parties are aware of this rather than finding out once negotiations have gone too far.

Completion

This is the point at which the business is transferred, in its entirety, into the hands of its new owner which may or may not be the same time as the contracts are exchanged.

Confidentiality

This is another reason for using a business broker at the outset as most buyers and sellers do not wish their identity to be revealed for fear of affecting business. Before we agree to act on behalf of any party they must sign a confidentiality agreement to which we are also bound. There is no problem with handing over client files once a deal is completed as long as due process is followed vis a vis data protection rules.

Cultural mix

Whilst many practices may look similar on the outside, each principal will run their affairs in a manner which is moulded around their personality, which means that the practice being purchased may not be compatible in its working ethos and environment to the buyer's, unless it is intended to run the new unit completely independently and with the existing management.

Deal structure

There are many ways of arranging the deal, from straight forward handing over of cash in a lump sum, to staged payments based on future performance with payment in cash and/or shares in the practice being sold. Most deals are straight forward and paid for in cash but ultimately the way the deal is done will depend on the particular requirements of each party, including any claw-back.

Desktop research

It is fundamental to any business deal that the buyer, in particular, undertakes sufficient research to ensure that the deal is appropriate and to assist in determining the correct price. The seller will also want to know what an appropriate price is in current market conditions as well as knowing the position from which the buyer is approaching. At a basic level, the research is done literally from the desktop by reading press cuttings, chat rooms, blogs, bulletin boards, talking to associates and professional brokers. Once a potential buyer is satisfied that the initial research has revealed nothing untoward, they would move towards a more detailed examination of the company's position, either by a site visit or requesting the books and records from the seller.

Disclosure

It is essential that both parties make known to the other party any matter which they think could scupper the deal, for example, pending regulatory action or imminent closure of a facility. The contract will normally provide for such eventualities to have been disclosed, failure to do so rendering the seller liable to be sued. Although a good negotiator will ensure that only that which has to be known is revealed, careful thought should be given to what falls into the category of requiring revelation. Similarly, the buyer should make it clear from the outset that they are in a position to complete the deal rather than wasting everybody's time if they are speculating and have no real chance of raising the finance.

DIV

A buyer or seller could arrange a deal without any professional help in a similar manner that one could sell a house without an estate agent or a solicitor if one really wanted to. However, it is strongly discouraged as very often mistakes will be made by either party which will cost a sum well in excess of the amount spent on professional fees.

Due diligence

Unless one is buying a practice for a ridiculously cheap price, for example, when it is in distress and clearly marketed thus, it is strongly recommended that as much due diligence as possible is done prior to completing a sale. The amount of checks that the buyer wishes to make into the affairs of the seller is not cast in stone and each person should act according to their own gut feeling, although there are a number of fundamental checks that are expected, such as the state of the market and the finances of the seller.

Enhancing value

This is where parties decide to merge in order to create synergies where by the sum of the “whole” created by the deal is greater than the sum of the parts. It should be noted that in many cases what appears to be a straight forward calculation does not follow through in practice. Similarly, a buyer may wish to purchase a seller’s practice with a view to closing down part of an operation and integrating it entirely into surplus capacity that they may have. In any event, if the sole reason for doing a deal is to achieve enhanced value, careful thought should be given as to whether this will actually be achieved, and it should be stress tested as far as is reasonably possible.

Exchange of contracts

This is the point at which the deal becomes binding although all the monies may not have been handed over. It is essential to check with the legal team as to what responsibilities fall upon the buyer at this point e.g. employment protection and insurance.

Fees

Bains Watts & Co. charge the buyer not the seller.

Finance

When you enter into negotiations to purchase a business, it is essential that you know how you are going to pay for it. Ideally you should have a finance offer letter from your bank or have access to cash. Unless you can demonstrate to the seller and the broker that you have funding behind you, many will not take you seriously and you may lose the deal.

Financial information

This will tell you how well the company that is up for sale has performed in the past. Basic information on incorporated practices can be obtained from Companies House and more detailed information will only be available from the company itself, if they give you access to their books and records. Whatever figures you are looking at, it is essential to be aware that the more up to date they are, the more credence you can give them and the more you can rely on them. It is also worth remembering that books and records that are deficient and sloppy may be indicative of potential problems within the organisation or may simply be a case of *“the cobbler going barefoot”*.

Focus on sectors

If you wish to buy a practice you may wish to focus on a speciality. An advantage of dealing with a broker who focuses on the accountancy sector is that they will probably have better access to practices for sale.

Formal offers

Once you are ready to proceed, after having established that the deal is satisfactory, you should arrange for a formal offer to be made to the seller. You should take legal advice at this point as there may be financial ramifications should you wish to withdraw for any reason.

Founders

When a person, who has founded a practice, decides to sell it the negotiations can often be more complex due to emotional factors. It is also important to establish how involved the founder is in the day to day running of the business and the goodwill associated therewith, especially where customers and suppliers are concerned. Often the founder agrees to stay on and work alongside the purchaser for an agreed period time, usually in a consultancy and advisory basis, for a six-month period.

Future sale

If you are buying the practice with a view to selling it on at the outset, you should be aware that market conditions can vary, and many potential purchasers will be wary of buying a practice that has recently been purchased and quickly sold.

Goodwill

This is the amount which you are paying over and above the value of assets and stock. In most practice there is a large element of goodwill being paid and the amount will depend on a number of factors including market conditions, reputation of the business and willingness of the buyer.

GRF

This refers to "*gross recurring fees*" and excludes one-off assignments that are performed for a client that cannot be expected to be repeated such as cash flow reports and loss of earnings reports. Typically, recurring fees consist of annual accounts and tax return preparation. If a practice that specialises in one-off assignments has a regular flow of these, then they have to be valued differently to a GRF basis.

Growth

Some people buy a practice in order to achieve a steady income flow whereas others see an opportunity to grow the practice once they have taken it over. In order to expand what was somebody else's practice you must be completely sure that the opportunity exists and be confident that you have the capabilities to realise growth potential. A classic case where there is growth potential is when somebody wishes to retire and has not invested in the practice or attempted to drive it forward for a number of years.

Heads of term

This is an outline contract and is basically a list between the parties of all the matters that need to be visited and any associated terms. It is expected that at this point both parties will contribute to the heads of terms in good faith and all relevant facts will have been disclosed.

History

The history of a firm is essential in determining its value and is comprised of the financial history which should be readily available and the non-financial history of which can be found in a number of sources, including trade journals, the internet, magazines and good old-fashioned spadework amongst competitors and suppliers.

Honesty

Whilst it is essential that all parties deal honestly and openly at all stages of negotiations, one should always be aware that not every counterparty is as honest as you may wish them to be or is as honest as you may think you are. We recommend that you go forward at all times in a business-like manner but with an enquiring mind.

How long does a deal take?

A deal can take from five minutes to four months, typically though, a deal will take around three to six months, although in a distressed sale, where a low price is being sought, the deal will move much faster, often in days, and the buyer will accept that the lack of due diligence is part of his risk and is being reflected in the price.

How long will it take to find a buyer?

Bains Watts & Co. have lists Potential of buyers. Often a practice will be put up for sale and the owner is adamant that they will not accept less than a certain sum, which therefore means that it will take much longer for them to sell their practice if they can sell it at all if their price is not realistic. Similarly, a practice with a bad history and negative goodwill may take a long time to find a buyer or could be virtually unsellable.

How much is my practice worth?

This is the \$64,000 question that every potential seller asks. Your practice is worth the amount somebody else is willing to pay for it! Deals done in recent month will be the starting point although one has to take into account a number of variables in order to arrive at the valuation. As with many matters concerning the purchase of a practice, you often have to follow the feeling in your stomach as to whether you are willing to accept a particular sum for your practice or whether you are willing to pay a particular amount to acquire somebody else's practice. Very often, the practice is worth far more to the purchaser than it is to the seller.

Indemnity

There may be issues which are uncertain at the time of a sale being completed and in order to finalise matters, the seller may give the buyer an indemnity which means that if particular matters come to light or events crystallise, the buyer will be compensated, either by the seller directly or through a third-party insurance policy which is arranged. The clawback will form part of any indemnity.

Independent advice

It is essential that all parties to a business deal such as this receive independent advice and do not rely on the other party's advisers. This is where a broker who is working for both parties comes into his own as there is no bias and both sides know what the broker's role is.

Input from both parties

It goes without saying that both parties are expected to co-operate at all stages, including disclosure and replying to documents. If you feel at any stage that your counterpart is not pulling their weight, you have to ask yourself why this is.

Instinct

Always follow your gut feeling. If it tells you there is a fundamental problem, then there probably is and you should walk away.

Jumping the gun

Very often, patience is required, and time is needed to sort out what can often be seen as small issues. While this can be frustrating for either party, it is essential that when time frames are agreed that they are stuck to and neither side is pushed into making a decision earlier than they may so wish. This does not mean that reasonable deadlines cannot be imposed, but simply means that events have to run their natural course and normal delays should be tolerated.

Keeping me informed

A good broker will at all times keep their clients informed of developments at all stages. This is what the broker is being paid for.

Key documents

A seller will be expected to have available, within a reasonable time frame, any documents that are deemed to be fundamental to the running of the practice. If a financial claim or any other matter is stated to be fact, then it can be reasonably expected that a document will be available to back it up. It is worth remembering that if a document which can be expected to be easily found for some reason cannot be brought into play for several days, this should put you on alert.

Key staff members

If the practice has any key members of staff, it is essential that steps are taken to keep them “*on board*”. This will mean identifying who they are, what their skill sets are and what the cost of retraining them will be. In this case the reputation of the buyer may be more important than the reputation of the seller.

Letters of engagements

When you deal with any professional or broker who is acting on your behalf, you should always sign a letter of engagement

Lock in period

This refers to the time during which the seller is obliged to continue assisting the buyer. Normally this will run along the clawback period as it is in the seller’s interest to co-operate, but direct involvement should diminish rapidly soon after the handover of files.

Lock out period

This refers to the period for which the seller is locked from competing with the buyer, either in outright terms or for a geographical area, depending on the nature of the business. It should be noted that any restraint of trade which is deemed to be unreasonable, will not be upheld in court and specialist legal advice is advised before making any conditions.

Management team

This is generally more important for a larger practice but where there is any key management team, it is essential that the team as a whole is retained, and this should be borne in mind during negotiations. It should be borne in mind that the key management team it affects could essentially be running off with your investment and worse still, end up as competitors.

Matters unresolved

It is important that there are no matters left unresolved by the time the sale is ready to go ahead. If any material is outstanding, the buyer should consider as to how important this is in terms of stopping them from proceeding and should give careful consideration as to whether an indemnity policy need be taken out. Certain matters may be left unresolved if both parties agree it is only fair and reasonable that the outcome is contingent upon future sales for example.

Meeting the other side

We recommend that once both parties have established that circumstances are correct to investigate moving forward towards a deal that they meet informally for a chat together, without the agent being present, the purpose of the meeting being to establish initially whether the two personalities are compatible. If the meeting is successful then a more formal setting is usually arranged for further meetings, some of which may require the agent to be present if the circumstances demand it, usually on larger or more complex deals.

Meeting the broker

We do not normally become involved with meetings although if a buyer or selling wishes us to build a business portfolio for them, we would normally meet them but not in the context of any specific deal. If a deal is particularly complex or large and our presence is indeed necessary, we will make the effort to attend the meeting.

Merging

When an outright sale of the practice is not feasible, or there are two practices in a similar situation which does not warrant outright sale, they may wish to merge. This is a much more complicated route to take as both principals were previously at their respective helms and but must work as one unit from now on, usually with only one captain. Such a deal will normally be more complex and take longer typically involving more professional advisers to negotiate the new hierarchy.

Motivation

It is vital to understand what motivates each party in a deal be it the buyer or the seller. This will set the background for the negotiations and will help establish which party has the upper hand in terms of calling the shots, although it should be remembered at this stage that this does not mean that one party can trample over the other without expecting ramifications somewhere further down the line.

Moving forward

Once a deal has been agreed and terms have been set out to the satisfaction of both parties, it is crucial that a swift timetable for going towards completion is set out and that a further timetable post completion is established. If matters drag, one or the other of the parties will lose impetus, which can lead to problems and stalled progress.

Negotiation

Negotiation is a subject that warrants several text books, however the one point that we would like to stress at this stage is that without a broker, negotiations are more difficult and that an ideal negotiation will lead to both parties coming away feeling satisfied.

Non-competing clause

This means that the seller agrees not to compete with the buyer after the deal is completed and may include certain key staff who were formerly employed by the seller but have to lose their job as a result of the deal. It is crucial that appropriate legal advice is taken to ensure that any non-competition clause is fair in order to prevent it being declared void by a court of law.

Objectives of each party

Both the buyer and the seller should make it clear at the outset why they are entering into this deal to enable the other party to tailor their demands in such a way that the deal can actually happen. While the buyer may have another commercial motive for doing the deal that he wishes to remain secret, it is crucial that the seller makes known to the buyer any matters which may be deemed as untoward which may lead the buyer to see legal redress after events.

Post-sale

After the sale is completed, the broker will normally remain in contact with both parties to ensure that there are no matters which remain unresolved or are giving cause for concern. Sometimes issues arise which are due to a misunderstanding and can usually be cleared up quickly with the co-operation of all parties. Sellers will normally be expected to make themselves available for an agreed period of time to answer any difficult queries that cannot otherwise be dealt with.

Preparing clients

Once a deal has been agreed, it is essential that clients are prepared for the changeover if it is going to affect them in any way. Often this means reassuring them that the original partners are still working in the practice and after the new owners have eased themselves into position, the old owners will usually fade into the background, either immediately or stage by stage, becoming consultants and eventually vanishing altogether.

Preparing staff

Some practices are sold without the knowledge of the staff and it is dropped on them like a bombshell. Whilst it is essential not to create a situation of uncertainty among staff, especially prior to a sale, the seller should think most carefully about how he is going to break the news to them and when. In the case of more senior staff, or key staff, it may be advisable to bring them into the negotiations at an early stage; however, each situation should be judged on its own merits.

Preparing suppliers

Suppliers need normally only be told of the change after it has happened, although it needs to be borne in mind that the credit status of the company may change, especially if there is a personal guarantee on any accounts and it should be noted that the former partners need to ensure that the guarantees are removed.

Property

If the business premises are to be sold as part of the package, this should usually be made clear early on. If a lease is involved, it is essential that full details of the lease and any changes which are pending are made clear to a potential buyer. It also needs to be borne in mind that if the buyer is not going to require the seller's premises or in the case of a merger there will be a rationalisation leading to premises that are surplus, that this issue is addressed early, as it is often a major part of the financial consideration.

Pitching the price

Of course, everybody likes to get as much as they can, and a practice is going to be worth as much as it is worth to the buyer. It is important to gauge initial interest by pitching the price at the correct level. It is not easy to raise a price from the advertised level once negotiations have begun so one needs to ensure that they are not being undersold. Usually, the broker will give this point careful consideration at the time of the initial contact with the seller, although in some trades there are more or less fixed valuations over which the seller will have very little control. Generally, there is a market value for an accountancy practice, comprising a multiple of the gross recurring fees.

Quality of enquiries

At Kensington we firmly believe in screening enquiries at the outset and ensure that you do not waste time with tyre-kickers and other agents pitching for business. Whilst this may reduce the number of enquiries, it will mean better quality enquiries which ultimately means a quicker sale with more beneficial terms to the seller.

Research of buyers and sellers

At Kensington we believe that both the buyer and the seller need to be properly understood which is why we make both parties fill in a detailed questionnaire at the outset. One may wish to undertake further research on the other party especially for a larger deal to ensure what the financial position is. If one can ascertain that the seller is in financial difficulty, one may be able to obtain a better price and conversely, if it can be established that the buyer is not in a position to fund a deal, then one does not waste time.

Restrictions

This normally refers to restrictions placed upon the buyer or the seller before, during and after any negotiations and following the completion of the sale. Restrictions can vary from forbidding a seller to go into the same business line for a period of time or selling in a geographical area. Similarly, they may be restricted from making any reference to the sale once it is complete in order to disassociate their name or pre-empt them from giving any opinion.

Screening

Once a list of potential purchasers has been established or, in the case of a buy potential targets have been established, the agent will work with the relevant party to screen applications as industry knowledge from the client is going to be infinity more accurate than that of the agent.

Site visits

It is often necessary for the buyer to visit the seller's premises and the seller will probably not want the staff to know what is going on. The buyer will be made aware of this at the outset and some excuse or cover will be found.

Size of company for sale

It is important to use a broker who is able to handle the size of your deal. For some brokers, they will only gear up to a maximum amount and others will not deal below a certain amount.

Solicitors

The role of the solicitor is to ensure that all documentation is in order and all facts are disclosed properly on the contract which will be enforceable. It is useful to be aware that an unscrupulous solicitor may see this as an opportunity to delay the deal by finding unnecessary complications for which they will charge extra. On a smaller deal, the parties may decide it is not worth engaging a solicitor and simply draw up a contract between themselves. At Kensington we firmly believe that solicitors should be used but under the strict supervision of the broker who at all times will be managing the sale. However, we have found that many accountants are reluctant to use a solicitor and if this is the case with you we can assist with preparing heads of terms and contracts, but with the caveat that we are NOT a firm of solicitors.

Staff retention

Whilst the buyer will be keen to ensure that certain staff members are retained, it is usually helpful if the seller gives some guidance in on the matter. If the staff are not to be retained, specialist advice needs to be given regarding redundancies.

Stalled negotiations

Negotiations often stall at various stages and for a variety of reasons. This is when the broker comes into their own as a third party who is independent and is able to speak to each side individually and report back which manages to defuse much of the emotional element and remove misunderstandings, which like behind most stalled negotiations.

Synergy

This refers to a situation where the outcome of the deal is that the sum of the parts is greater than the individual parts. Very often a buyer looks to achieve synergy through acquiring or merging with another practice.

Taxation

Inevitably, the Chancellor wishes to get his hands on the proceeds earned from this deal and it is essential that the deal is structured in such a way to minimise the tax paid by the seller. The buyer will also be concerned that there are no hidden tax liabilities which may potentially transfer to him after the purchase and it is possible to take out insurance against this. Once again, specialist advice is needed and if it is beyond your experience, do not be embarrassed to ask for guidance.

Terms

The terms of the read should be made clear early on once it is clear that there is a deal on the table. The exact details will vary from deal to deal and may vary back and forth between the two parties in terms of give and take. Once can expect the eventual terms to be broadly in line with the original terms as discussed unless something untoward or material comes out during negotiations.

Timing

The timing is everything. There are certain times of the year when an accountant will no consider taking his eye off the ball, for example during the firm's busy season, or when tax return deadlines are looming. Both parties should understand that the timing can affect the price of the deal in itself. Where undue pressure is placed upon either party or if one of the parties seems to be delaying, careful consideration should be given as to the reason why this is taking place and it is not unreasonable to expect a rational explanation.

Understanding the business model

There are many types of practice out there and the buyer often feels he has the ability to learn new skills. While this may indeed be true, if one is entering into uncharted waters without any support or understanding of a market place, they should remember that it is usually a recipe for disaster. An experienced accountant who has exceptional talent and wishes to go into a new field should ask of the seller to remain behind for some time to teach them the ropes, so they can pick up the business. This is often a good idea for a seller who is struggling to find a buyer, but we would advise the seller to ensure that they do not get pulled into the business for too far for too long. At Kensington when we screen potential buyers, we do ask for experience in the accountancy field which they wish to acquire.

Valuation

The practice is worth as much as someone is willing to pay for it, within the parameters of the market place. We should remember at all times that just because you think something is worth a particular amount, this does not mean it is worth the same to a buyer. Conversely, there may be situations where you think it has nothing of value, but the buyer is most keen to get his hands on it. The best way to achieve maximum value for your business is to sell at a time of your choosing and not when you are forced into it by circumstances.

Verifying identity

You may be asked to verify your identity by the agent as part of compliance with Money Laundering Regulations and you should not be unduly disturbed by this. You should ensure that your counterparty is genuine and is not on a “fishing trip” to find out commercially sensitive information on behalf of a third party

Warranties

The seller may be asked to give a warranty to the buyer regarding various contingencies that may or may not crystallise and you may be asked as a seller to find an insurance company wishing to underwrite such a warranty as the buyer may not be willing to rely upon your solvency sometime in the future. It could be that you have been asked to deposit some money by a solicitor as a potential payback in the event that something goes wrong during the defining period.

Working together

At all stages it is essential the buyer and seller work together to achieve the common aim which is a successful deal. You may have to put aside prejudices in order to achieve the deal. Remember at all times, this is a business arrangement and not a dinner party and the fact that you may not like the people you are dealing with is not necessarily a reason to walk away, although you have to ensure that there is trust between each other.

X-rays

We are not blessed with the ability to see through items without the use of an x-ray machine, so if you think something is being hidden from you, it is essential that you dig deeper. A good accountant who performs due diligence should be able to find out whether their trust is being misplaced or not. Normally, the more you think, the more you find, but there is a point at which you have to decide enough is enough, although at all times if you find something which is genuinely untoward, you should continue to ask questions.

You

This is probably the most fundamental area of doing the deal. It boils down to one thing, what do you want to get out of it?

Zeal

It is important for both sides to be brisk and business like about the deal. It is important that neither party displays too much zeal as the other party may be asking themselves what all the rush is about.