The Entrepreneurial Business
from Start Up to Exit

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Henley Business School
UNIVERSITY OF READING

Contents

1. Foreword

In compiling this guide, to taking an entrepreneurial business from start to exit, we have dealt with the issues that entrepreneurs often encounter and frequently ask us questions about when involved in the rigours of setting up and running a business.

Starting a business is an exciting time – the opportunity to bring to the market a technology service or product that will make a difference to the lives of the customers, clients or users.

Our aim is to make the transition from initial concept to commercialised entity easier and take away the worry about dealing with matters that are less familiar.

Of course, every business is different and this guide is just that, only a guide. We love talking to entrepreneurs and helping them grow their businesses – so if you have any questions or would like to discuss any aspect of your business, we'd love to hear from you!

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The Henley Centre for Entrepreneurship at Henley Business School is delighted to collaborate with James Cowper Kreston in producing this guide for entrepreneurial businesses seeking to grow and add value. The guide contains reference to the essentials every entrepreneurial business needs to think about in driving growth.

We hope that all who use the guide will find it of value and of course we welcome any suggestions that will help us improve the guide for all users in the future.

Henley Business School remains committed to engaging businesses and sees the collaboration with James Cowper Kreston and the guide to be an integral part of that engagement.

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2. Introduction

While this guide won't tell you how to run your business, and make it successful, it does include details of some of the key areas that anyone responsible for running an entrepreneurial business should be aware of. This includes many of the compliance areas that are important for businesses to get right, as non-compliance with employment law or failing to pay taxes to HMRC, for example, may result in significant fines and penalties, and could result in the company or its directors committing a criminal offence.

It also provides a useful overview of some of the key issues facing management of an entrepreneurial business, from winning and developing customers, writing the first business plan, funding the business at each of its different stages through to possible exit routes for investors. Whilst this guide focuses on financial and strategic issues, thought also needs to be given to IP protection and marketing and sales strategy, amongst other areas.

Overall, the key message is that whilst starting and developing an entrepreneurial business, and successfully managing it to become profitable and valuable, is very challenging it can also be extremely rewarding both financially and emotionally. This is something that the right professional advisors will understand. While they won't be able to make business decisions for you, it is vitally important that any management team builds a close relationship with trusted advisors who they can turn to, whatever the stage of their business, so that the internal team can concentrate on what they're good at.

3. Business Plans

The business plan is an important document for any company, as it sets out its aims and how it expects to achieve them. For most businesses, a comprehensive plan is essential from the earliest stages in order to:

- Document the management team's objectives and how they consider they will achieve these
- Provide a tool for communication with potential third party funders
- Provide benchmarks against which the company's progress can be measured both internally and externally
- Be used as a management tool.

3.1. Contents of the Business Plan

There are key components that any business, seeking to use the business plan as a tool to raise investment, should ensure are included as follows:

- Executive summary
- Management Team
- Market and Commercial Opportunity
- Business Offering
- Industry and Competition
- Marketing and Sales Plan
- Operating Plan
- Product Development Plan
- Financial Plan
- Funding.

These are dealt with in more detail below.

3.2. The Executive Summary

The executive summary is the most important section of a business plan as first impressions are critical and, in many cases, this will be the only section that readers digest in full.

Very often the executive summary is used as a standalone document to elicit interest from investors. It is therefore vital to communicate your messages in a way which will interest your audience and encourage them to read more.

The key features of a good executive summary are that it is short, precise and simple, allowing key information to be found easily and a good understanding of the overall business plan without including a lot of unnecessary detail. The content will vary depending on the nature and type of business and on the circumstances, but key elements might include:

- What the service/product/technology is and what **need** or market opportunity it is addressing
- The scale and nature of the potential market for the business offering
- The key details/skills/experience of the management team
- The level of funding that is being sought and how this will be used in the business
- The expected exit route (e.g. trade sale or IPO) for investors.

3.3. The Management Team

Possibly the most important section for an investor is the quality of the management team, who, after all, will be entrusted with maximising the success of the business and the investors' return.

The key information investors will be interested in is the relevant experience, skills and the contribution each team member will make to the business.

It is important this is relevant and does not just list all the "badges" the team members have, instead the background information for each member of the management team should demonstrate that they possess the experience and skills which are required for the current role.

Of particular relevance will be whether the individual members of the team have ever taken a similar business through start up to profitable exit.

3.4. Market and Commercial Opportunity

This section should include a description of the market (not to be confused with Industry) that is addressed by the business and a summary of how it is likely to develop. This should illustrate a good knowledge of existing and potential markets and include the highlights of, and conclusions drawn from, any market research including an analysis of the PESTLE forces and trends that has been conducted.

A deep insight into the commercial opportunity whether this is exploiting a change in the external market, resolving a problem like waste or filling a market gap is essential.

Sometimes the new business is addressing a need that might not yet be apparent to the general public or the business community – this is often the case with novel or disruptive technologies. Such businesses often have the greatest potential, but frequently are also the hardest to demonstrate, at least in the early stages.

3.5. The Business Offering

The product or service offering that the business is developing is, of course, fundamental to its business plan, so it is important that the plan summarises key features and benefits and include customer testimonials.

The business plan need not (and for the purposes of confidentiality and protecting IP probably should not) include too much technical detail on how the product or service offering will be delivered. However the plan should set out some key features and benefits, in particular how the offering is superior to competing offerings whether through being of better higher quality, having more features, being at a lower cost, being easier to use, or some other advantages.

3.6. Industry and Competition

As well as an overview of the market the business plan should include an analysis of the industry a consideration of any competitors and how the business distinguishes itself from that of the competition. An analysis of the competition such as a Competitor Assessment Grid or Competitor Radar Diagram showing competitive advantages over existing solutions available in the market is crucial and should be included in the Industry section.

The critical success factors (e.g. product development/manufacture/sales & marketing/customer service/technical support) in an industry are important to know and convey… most industries will have 6-10 critical success factors and competitors try and differentiate themselves on these factors.

The section should include a brief statement of what management believes regarding the long term prospects for the industry including its financial strength and whether companies make money in the industry.

3.7. Marketing and Sales Plan

Equally important is setting out how the offering will be marketed and sold and how the company will make money i.e. the business model. This might be through sale of goods, rental or a subscription model for example, but a wide variety of business models exist and indeed the model may evolve over time as the offering matures and gains acceptance. For example, some software or internet based offerings may be offered free of charge initially to garner interest and uptake, before later moving to a subscription based model.

It is critical to define the sales strategy of the business as the success of the business rests on generating sales. The sales strategy is different to the marketing strategy but of course these are related, the marketing strategy enables the sales strategy which is all about conversion

In this section in particular, you will need to take great care to strike the right balance to give enough information to elicit interest, but without risking divulging too much commercially sensitive information.

3.8. Operating Plan

The operating plan section of the business plan outlines how the business is/will be run and describes the *operational processes, structures and systems* and how products or services will be created, produced and delivered to the customer i.e. market.

Typically this is done by describing both the *front stage* (customer facing) activities and the *back stage* (behind the scenes) activities.

The front stage includes customer services and support, marketing communication e.g. advertising, newsletter and website and of course sales (both inside and field based)
back stage includes staff recruitment, identifying and engaging suppliers, sourcing raw materials and manufacturing products.

This section should also describe the company's facilities and equipment and if it is manufacturing a product it should include description of manufacturing whether contracted out or carried out in house.

3.9. Product Development Plan

Where the business is developing products or services management will need to include a section on product development or R&D describing how this is being carried out.

Most product development follows a logical five step process that runs from *ideation, to prototyping to testing to commercialisation and post launch follow up* which should be described in detail e.g. development of a pharmaceutical product runs from research to pre-clinical through Phase I to Phase III clinical development to Phase IV post launch monitoring.

3.10. The Financial Plan

The financial plan should be developed after market analysis has been completed and clear objectives have been set. The key elements of the financial plan are the forecast profit and loss accounts, cash flow statements and balance sheets.

The forecast cash flow statement is critical as it underpins the funding requirements and demonstrates the business' ability to sustain itself, service its finance and provide returns on investment going forward.

Key assumptions on which the forecasts are based should be disclosed and explained. A 'stress test' scenario may also be useful to demonstrate that the business remains viable if adoption of the business offering is slower than expected or some other detrimental impact occurs.

Again, a balance must be struck as the investor will expect to see confidence in the business offering, but with a healthy realism and some ability for the business to absorb 'shocks'.

3.11. Funding

This section should include the level of funding required by the business as derived by the financial plan and how such funding will be used.

Key information to include in this section is:

- Whether this will be taken in tranches
- Current and future funding requirements
- Milestones against which the company's financial performance can be measured
- How the required funds will be used and what stage this funding will get the business to.

4. Funding

A key issue for most entrepreneurial business is obtaining sufficient funding to finance its growth and development to the point where the business becomes cash generative and self-sustaining. Even after that point is reached further funding may be required, for example to finance expansion plans or the acquisition of another business.

The identification of a funding requirement, ideally over a year before it is needed, is one of the key outputs of a business plan. It is important to regularly update financial forecasts to allow the management team time to raise funds before a lack of funding becomes detrimental to the business' growth and development and certainly well before it becomes critical to its survival.

There are several different types of funding, the suitability of which will depend where in its lifecycle the business is. The rest of this section outlines some key features of the most prevalent types of funding available to entrepreneurial businesses.

4.1. Grants

Grant funding is generally provided by the government, the EU, regional development agencies and some special interest groups such as research councils or charitable institutions. Wellcome Trust or Cancer Research UK are two such organisations and offer grant funding for specific pieces of medical research. Innovate UK, the government's innovation agency is another major source of grant funding.

Grant funding is usually the cheapest form of finance and an important part of the funding package for some start-up companies.

The main advantage of grants is that they provide cheap non-dilutive finance which may take the form of a subsidised or zero-interest loan, or even an outright cash grant. In addition, support schemes can provide expert advice, information or subsidised consultancy.

However, there are drawbacks, including strong competition for grant schemes, strict acceptance criteria and often onerous application processes. There is typically also a requirement to match any grant funding as grants do not usually cover 100% of a project's expected costs. It is also important to consider the interaction with Research & Development tax credits, (see section 10.53)

4.2. Equity

Equity essentially comprises funds invested in a company in return for shares in that business.

Companies at every stage of their development may raise funds from the issue of equity shares, but the nature of the investor will change as the company enters different stages of its development.

Friends and family

At the very earliest stages family, friends and other personal contacts of the founder or original management team are often a key source of funding. Generally this will only provide quite limited availability of funds and some founders will not have this option available to them. Advantages include that such investors are less likely to require a direct involvement in the business than other investors may do. Emotionally, it can be fun and rewarding to work with close friends and family, but equally there is a risk that a failed business arrangement, or business based disagreements can damage what were once close personal relationships. A shareholders agreement is usually recommended.

Business Angels

These are self-certified high net worth individuals and sophisticated private investors looking for investment opportunities, who will also often act as a source of expertise for the management team. Many of them will have significant experience in business – perhaps having successfully exited from another business. Business angels may work alone or in networks that operate independently or affiliated to a University (such as Henley Business Angels which is affiliated with the Henley Business School at the University of Reading).

The typical investment size for an individual business angel is £25,000 to £250,000 but some can go as high as £2m for the right opportunity. As the average individual investment is fairly small angels often like to invest in syndicates, spreading the risk across all investors with one angel taking a lead role. They will usually look to exit the company within 3-5 years.

The advantage of using business angels is that they can offer more than money by providing expertise and experience. However, they can be difficult to find and managing the various interests of a large group of angels can be challenging.

It is often best to make approaches to angels through an intermediary or network rather than targeting them directly.

Business Angel networks are generally members of the UK Business Angels Association (UKBAA) and a list of networks that are members can be found on the UKBAA website.

Venture Capital

These are investment funds seeking high rates of return on investments, typically in fairly early stage businesses with high potential. VC funds typically invest a few hundred thousand up to a few million pounds, depending on the quality of the opportunity and the valuation.

Some funds are generalist, and others are targeted at making investments in specific sectors or geographic areas. These funds are looking for companies with a high earning potential that are able to offer a defined exit plan and timetable, usually in the form of a sale or flotation. Increasingly, such funds will not be interested in investing unless the company is already generating revenue or demonstrably close to doing so.

Venture Capitalists will want to get their money and profits out as fast as possible. It should be borne in mind that in making an investment they will typically want to have more control over the company than an angel will. This usually takes the form of a director on the board.

Only a small proportion of business plans received by venture capitalists are successful in securing investment.

4.3. Debt Financing

Debt finance will typically only be relevant in circumstances where a company is revenue and profit generating, however in recent years debt funding has become somewhat more flexible and, in certain guises, increasingly available to earlier stage businesses.

Overdrafts, bank loans (commercial mortgages), asset finance and invoice discounting are common sources of debt finance. Before lending, a bank will want to know that the company is a good risk. Typically, the company will need to present a credible business plan, provide evidence that the management team are competent and have a successful track record in business, as well as having well developed and achievable financial plans.

Whatever the type of borrowing used the company will probably have to pay arrangement fees as well as interest. Terms and rates depend upon the bank's risk assessment of the company. Repayment terms can be flexible to meet specific needs.

A bank lender will also require some form of security, either from the company, (in the form of a charge over the company's assets), or from the directors (in the form of personal guarantees), or both. A personal guarantee will require the directors to guarantee the company's ability to repay the debt by securing the loan against one of their assets (usually their family home unless they have other substantial assets).

4.4. Business Relationship Funding

This is another source of funds that can be overlooked. It may be possible to introduce potential alliances to add value to both parties. Potentially, such alliances can also create an ultimate exit route in the longer long term.

- **Joint Ventures:** Requires a legal agreement embodying the deal and a 'special purpose' company which is owned (usually equally) by the joint venture partners
- **Joint Working Relationships:** These are an informal partnership which may be more project specific where the parties can share resources and returns
- **Agencies:** These can be geographical or product specific and generally incorporate a payment for the right to the agency
- **Alliances:** These do not require a separate company and can be embodied by a legal agreement to work together
- **Trade Investors:** Otherwise known as Corporate Partnering. This is where a (typically larger) business takes a minority equity stake in the business. Such investors would typically be key customers or suppliers to the business. This can be a good way to involve a much larger company in the business with a view to a possible trade sale to them further down the line
- **Franchises:** This can allow the business to grow with minimal further direct investment
- **Licensing:** This involves licensing intellectual property; a product or service to enable others to sell it or utilise it in some way. This can be a valuable source of revenue – and hence funding – for technology-based businesses in their earliest days.

5. Business Structure

5.1. Choice of Business Structure

One of the first decisions facing a new business founder is whether to operate the business structure through a limited company, a partnership or as a sole trader. There are a number of commercial and tax considerations to take into account when making this decision.

An unincorporated business has fewer statutory requirements to comply with and has the advantage of not needing to keep financial information in the public domain (with the exception of Limited Liability Partnerships or LLPs).

A company is often a preferable structure for an entrepreneurial business, because:

- Starting a business has always carried a high commercial risk. The formation of a limited company provides the owner(s) with some protection under the limitation of liability that comes with a corporate structure. Each shareholder's liability is restricted to the capital they have introduced, although this limited liability is often extended by personal guarantees given to banks and other funders.
- A corporate structure makes it much easier for investors to take a stake in the business at the appropriate stage of development. Indeed, investors are unlikely to consider investing in anything other than a limited company, as there are no easy means for them to get the return on their investment in any other structure.
- It is generally easier to incentivise and reward staff in a corporate structure, particularly by having the ability to use share options and incentives as an alternative to cash bonuses.
- Many tax breaks are only available to companies – principally these include Research & Development Tax Relief (see section 10.53) and payable credits for investment in green technology.
- A limited company is generally more tax efficient than other structures, although this is not always the case, and the benefits can be quite marginal.

There are, however, some advantages in keeping a non-corporate structure, including the following:

- If profits are low, such that Income Tax and National Insurance are payable only at lower personal rates, the overall tax burden can be lower.
- If losses are made, these can be immediately used against other personal income of the business owner(s) to reduce tax.
- A business could be operated as an unincorporated entity in its early stages to make use of the losses as above, then transferring to a limited company at a later stage, before seeking further investment or implementing any share incentive schemes. However, this strategy could be risky from a tax perspective and advice should be sought before following this route.

If a corporate structure is preferred, then there is the further choice of a private or a public company. Private companies are denoted by having the suffix 'Limited' or 'Ltd' appended to their name, whereas public companies have 'Public Limited Company' or "Plc" appended to theirs.

The key difference between them is that a Plc is subject to greater regulation than a limited company – for example, it has to have a minimum of £50,000 of share capital, compared with a limited company only needing £1 and Plcs always require an audit, whereas many private companies do not.

Advantages of Plc status are largely limited to prestige and, perhaps, the impression of being a larger, more established company and financially robust. There are also some advantages in the context of bringing in external shareholders, but these are relatively narrow in scope. Being a Plc is a pre-requisite to a flotation, but this step is usually taken as part of the IPO process (see section 13.6) rather than needing to be in place at the outset.

Typically, the additional burdens of being a public company outweigh the benefits and the vast majority of entrepreneurial businesses are established as private limited companies.

6. Directors' Responsibilities and Duties

Every limited company is required to have a minimum of one director, who is responsible for the running of that company, while a Plc must have a minimum of two. Being the director of a company is more than just a job title, it involves serious responsibilities and duties that if breached can, in some cases, have severe consequences including potential criminal liability. Additionally, the protection afforded by limited liability can be removed if it is concluded that a director has acted improperly.

The duties and responsibilities of a director are set out primarily in the Companies Act 2006, but, there are a whole range of legislations from Health & Safety to Environmental that include responsibilities for directors.

6.1. Directors' Duties

In simple terms, the company and its interests come first. A director's duty is primarily to the company. Even sole director/shareholder companies must consider the implications of their actions by not putting their own interests above those of the company.

The following summary was published by the Government to aid directors in fulfilling their duties. This provided general guidance on the expected conduct of directors:

- Act in the company's best interests, taking everything you think relevant into account
- Obey the company's constitution and decisions taken under it
- Be honest and remember that the company's property belongs to it and not to you or its shareholders
- Be diligent, careful and well informed about the company's affairs. If you have any special skills or experience, use them
- Make sure the company keeps records of your decisions
- Remember that you remain responsible for the work you give others
- Avoid situations where your interests conflict with those of the company. When in doubt disclose potential conflicts quickly
- Seek external advice where necessary, particularly if the company is in financial or legal difficulty.

Applying the guidance summarised above will help directors fulfil their duties and responsibilities.

7. The Management Team

One of the keys to a successful business is undoubtedly having a quality management team. Potential investors will (rightly) be as interested in the management team's experience, skills and capability as they are in the core product or service the company might provide.

In recent years the majority of business failures have been attributed to failures of management rather than being as a result of adverse external influences, so getting the right management team in place is vital.

Investors prefer a strong management team with a mediocre business model than a mediocre management team with a game changing business model.

There are several key factors which need to be considered when a management team is being formed:

7.1. Background

What is the background of each member of the team? Where have they gained their experience and is it relevant to the current business? In many circumstances it is not necessarily specific industry experience that is relevant but more the experience of working in a business of this size and type.

It is also important to consider the standing of each of the management team amongst their peer group outside the company. How they are viewed externally is particularly important when the company is seeking funding.

7.2. Skills

Does the team as a whole contain all the core skills that are required to operate this particular business? Core skills will normally mean sales, marketing, finance and admin, production/operations and product development.

7.3. Roles

Is the team balanced in terms of the team roles that each of the individuals play within it? It's no use everyone being full of great ideas as to how to drive the business forward if there is no one to deliver on those ideas.

A balanced management team is essential to sustained success.

7.4. Working Relationships

How do the members of the team relate to each other? If there is obvious antagonism this will impact the smooth running of the business.

A key question for investors is 'has the team worked together successful before?'

It must, however, be recognised that in its earliest years a new business may well not be in a financial position to recruit an internal management team that can cover all the aspects mentioned above. In these circumstances the company is more reliant on the other half of the team – the external advisers.

A typical external team might include:

- Lawyers
- Accountants
- Marketing/PR consultants
- HR support
- Bankers.

8. General Compliance

Operating a new business as a member of a management team means that certain procedures need to be put in place to enable the business to meet its statutory responsibilities. These largely fall into four areas:

8.1. Employment and Human Resources

As employment law grows more complex with increased risk of employment claims it is important to ensure the business' HR system takes account of all the key regulatory requirements. Having HR systems in place is not intended to stifle creativity and entrepreneurial flair, but to ensure everyone is treated fairly and knows what they are entitled to. Putting the correct systems in place from the start will save valuable management time in the long run.

The requirement to comply with employment law begins with your first employee. Therefore, as a minimum you should have in place legally compliant contracts of employment for your employees and directors. These should set out the main terms and conditions of employment, and need to comply with various statutory entitlements.

As a minimum, employers are expected to have disciplinary and grievance procedures in place, although it is highly recommended that policies and procedures are in place for all employee/employer statutory regulations.

Other important legal and practical considerations are that employee records will need to be kept for all employees. These should include keeping safe, secure, confidential personnel files which will include details of an employee's proof of right to work in the UK (e.g. copy passport, etc.) and payroll information (e.g. tax code, NI, bank details etc.).

Non-compliance with regulations could mean a fine or, potentially, a prison sentence. You will also need to obtain advice on other issues like statutory sick pay and maternity pay, employment tax, etc. As you grow and employ 5 or more staff, you have further statutory requirements like providing a Stakeholder pension scheme, as a minimum.

8.2. Insurance

Make sure you have all the relevant insurance policies in place. Legally, you may need to have Employers' Liability Insurance and Public Liability Insurance. Depending on the nature of your business, it may also be advisable to have Professional Indemnity Insurance and Key Man Insurance, as well as general commercial insurance.

8.3. Health and Safety

Employers and employees have a duty to act responsibly under the Health and Safety regulations and this extends to welfare issues like preventing stress in the work place.

You will need a Health & Safety Policy, and will be required to undertake various risk and Control of Substances, Hazardous to Health Regulations (COSHH) assessments depending on the nature of your business. You will need to consider aspects like first aid, fire precautions and ensure these are communicated to employees.

There is also legislation relating to Corporate Manslaughter, which you will need to be aware of. Non-adherence can mean hefty fines, prohibition notices, prison sentences and/or breach of employment contract claims for breach of duty of care.

8.4. Permits and Licences

Particularly in highly regulated sectors such as food, pharmaceuticals or financial services, it is crucial that the company has the necessary permits and licences in place.

8.5. Books and Records

All UK limited liability companies are required to keep records of their financial transactions. These records must be sufficiently detailed to accurately assess the financial position of the company at any given point and to enable it to prepare a profit and loss account and a balance sheet.

When raising finance any potential investor will expect the company's accounting records to be complete and accurate.

The records should contain details of all income and expenditure and allow the company's assets and liabilities to be separately identified.

Records can be maintained in different formats and which is the most appropriate will depend on the size or complexity of the company. Start-up businesses with few transactions may be able to record them on a simple spreadsheet whereas a more comprehensive accounts software package will be more appropriate for larger businesses.

External funders will typically require that a company produces monthly management accounts so they can monitor actual performance against forecast.

In addition to maintaining accurate financial information it is good practice to perform reconciliations of key control accounts such as the bank, VAT, net wages and PAYE to identify any errors or omissions and ensure that the company's reported cash flow position is accurate.
Adhering to these basic principles will enhance the reliability and accuracy of standard system reports and other management information. Ready access to sound financial information reduces potential time costs in preparing accounts and other financial documents, such as VAT returns. This minimises the time devoted to answering queries and results in more effective decision making by management.

The Companies Act 2006 requires books and records to be retained for three years. However, HM Revenue & Customs can open an investigation up to six years after the period in question and it is therefore advisable to retain original records for at least seven years.

9. Statutory Accounts and Related Requirements

Companies incorporated in the UK have to comply with various accounting and similar requirements, with increasing penalties for non-compliance. We can advise in more detail on all aspects, however, the following are some key issues to be aware of.

9.1. Accounting Reference Date

Each company needs to set an accounting reference date which it will prepare its accounts to each year. When the company is incorporated the year end will, by default, be set as one year from the end of the month of incorporation. For example, a company incorporated on 16 August 20X1 will prepare its first set of accounts for the period ending on 31 August 20X2.

You can change an accounting reference date by shortening an accounting period as often as you like and by as many months as you like. However, there are restrictions on extending accounting reference periods. An accounting period cannot exceed 18 months in length unless the company is in administration and a company cannot extend its accounting period more than once in five years, except in exceptional circumstances.

It is not possible to change an accounting reference date for a period for which accounts are overdue.

9.2. Preparing and Filing Accounts

All companies must prepare accounts that report on their transactions during the financial year. Private companies must file their accounts with Companies House within 9 months of their accounting period end date, while Plcs must file their accounts within 6 months.

Accounts must comply with relevant law and current UK (or International) accounting standards.

Small companies can choose to follow special reporting requirements and disclose less information in their accounts. A company qualifies as small dependent upon the number of employees, its turnover and total assets, with the relevant limits updated periodically.

Public companies and certain financial services companies (and some members of groups containing such companies) cannot qualify as small companies.

9.3. Audit Requirements

Unless exempt, companies are required to have their accounts audited. An audit is essentially a review of a company's accounts to report on whether they represent a true and fair view of the company's financial affairs.

Most small companies are exempt from audit, but there are exceptions.

Where an audit is not required by law, there may be circumstances where a company would nonetheless choose to have an audit. Third party investors will often stipulate as a condition of their funding that an audit is carried out. Also, if 10% of shareholders request it then an audit will also be required.

9.4. Annual Confirmation Statements

Every company must provide Companies House with an annual confirmation statement. This is a relatively straightforward process confirming/updating basic information on the company.

The confirmation statement is to be submitted 'as at' the anniversary of the incorporation of the company and is due to be submitted within 28 days of that date.

Although straightforward, this is a very important process as failure to submit can ultimately (after some warning letters) lead to the company being struck off the register, and the directors can be prosecuted.

9.5. Other Companies House Compliance

There are various other matters which need to be reported to Companies House as they occur, these include:

- Appointments or resignations of directors or company secretary, or changes to their personal details
- Issues or allotments of shares in the company
- Company purchase of own shares
- Reductions in share capital
- Changes to Persons with Significant Control (PSCs).

The above list is not intended to be exhaustive, but instead to outline some of the more common events that are reportable.

9.6. Dividends

When a company pays dividends to its shareholders it is required to prepare dividend vouchers and board minutes declaring the dividend. It is also essential to ensure that the company has sufficient distributable profits to be able to pay the dividend legally. Any dividends paid without sufficient distributable reserves in the company are illegal and technically void. This has various legal, commercial and tax consequences which are to be avoided.

10. Taxation

Businesses in the UK are subject to several different kinds of taxes. The main types are summarised below, together with some examples of tax efficient schemes which entrepreneurial companies are often well placed to take advantage of.

Tax rates and thresholds change regularly so they are not reproduced here but are available on our website.

We can advise and assist on all aspects of business tax.

10.1. Corporation Tax

Companies in the UK must register for corporation tax which is payable on their taxable profits. The UK corporate tax regime is a self-assessment regime, meaning the company is responsible for calculating taxable profits based on the accounting profits adjusted to reflect the tax treatment of certain items.

There are specific rules for companies structured as a 'group' although each company remains responsible for the preparation of its tax return.

The due date for settling the company's corporation tax liability for the accounting period will depend on the size of the company by reference to its profits and whether it is part of a group of companies. Most small companies are required to pay their Corporation Tax (where due) within 9 months of the year end. The tax return has to be filed electronically within 12 months of the end of the relevant accounting period. Any difference between the tax liability on the final tax return and the amount paid within 9 months will attract an interest charge or credit, depending on whether the estimated liability was higher or lower than the final one.

Larger profitable companies have to pay their tax in four quarterly instalments starting in the 7th month of the period in question, whilst from April 2019 the largest companies will need to pay their tax in four instalments starting in the 3rd month of the relevant accounting period.

Whilst the UK tax framework is relatively stable, new legislation is continuously being introduced and there are a number of pieces of anti-avoidance legislation. It is therefore important that appropriate advice is obtained

10.2. Value Added Tax

Value Added Tax ("VAT") is a sales tax which is charged on the sales (known for VAT purposes as outputs) and can usually be reclaimed on the purchases (inputs) of a business.

Businesses with taxable sales above the turnover limit set by HMRC (which is amended each year) are required to register for VAT, meaning they must add VAT to their sales invoices and remit this to HM Revenue & Customs. It also allows them to recover VAT on most of their costs, making VAT cash/profit neutral for many businesses. In the following circumstances a company must register for VAT:

- Where the turnover limit is exceeded in any 12 month period. This is a rolling test, so every month a company needs to total its sales for the previous 12 calendar months to see if registration is required
- Where it is expected that the turnover limit will be exceeded in the next 30 days.

A company may elect to register for VAT when its turnover is below the threshold if this is advantageous. This is likely to be useful when the company is in a start-up position and its costs exceed its revenues. In order to be able to register in such circumstances the company must be able to demonstrate that it is being set up with the intention of running a business that will be generating profits. We would strongly recommend taking advice before taking the decision of voluntarily registering for VAT.

VAT returns will generally be submitted quarterly, and must be submitted within one month of the end of each quarter, unless you pay electronically; in which case you may get up to an extra seven days to file your return and pay.

Companies can elect to account for VAT monthly; this can be of benefit when the company is regularly in a position where it receives a refund from HMRC (input tax exceeds output tax) which is often the case in the early stages.

Some small businesses can use a 'flat rate' scheme which simplifies the VAT accounting.

There are financial penalties for late returns which increase depending on the number of defaults.

Most businesses are required to submit their VAT returns electronically.

10.3. PAYE

PAYE (Pay As You Earn) is the system that HM Revenue & Customs (HMRC) uses to collect Income Tax and National Insurance Contributions (NICs) from employees' pay as they earn it.

Businesses with employees (including directors) are required to deduct Income Tax and National Insurance contributions from their pay and submit this to HMRC each month. Monthly deductions must be paid over to HMRC by the 22nd of each month (19th if not paid electronically). There are potential penalties for late payments of deductions.

Employers must also set up an appropriate system to report details of their employees' pay and deductions each month to HMRC – this is known as Real Time Information (RTI).

We would recommend that all businesses use a specialist payroll supplier unless they have properly qualified staff internally.

10.4. International Tax

As businesses grow they will increasingly operate in the global markets and International Tax may become a consideration. As this is such a complex area it is best to take advice as soon as you think that you may be trading internationally.

10.5. Tax Incentives

10.51. Enterprise Investment Scheme (EIS) and Seed Enterprise Investment Scheme (SEIS)

The Enterprise Investment Scheme is designed to help small higher-risk trading companies, such as those operating in the start-up market, raise finance.

A company hoping to attract investment under the EIS scheme must meet strict criteria but, if met, the scheme offers a range of significant tax reliefs to investors who purchase new ordinary shares in those companies, which makes the qualifying company more attractive to potential investors. Tax reliefs include an immediate deduction for a proportion of the amount invested to be offset against taxable income, and exemption from capital gains tax on any subsequent sale of the shares provided certain criteria are met.

SEIS is a similar scheme for even smaller companies which attracts even more attractive tax reliefs for qualifying investments.

Both schemes can be highly attractive but are subject to strict criteria and rules. Specific advice should be sought if these schemes are of interest.

10.52. **Enterprise Management Incentives Share Option Scheme (EMI)**

Companies often use shares and share options to retain and incentivise key employees, helping to ensure that the aims and values of the key employees will be aligned with those of the business.

An Enterprise Management Incentives share option arrangement is a flexible scheme which companies can use to extend share ownership on tax-favourable terms, subject to meeting company and employee qualifying criteria.

Again, advice should be sought before embarking.

10.53. **Research & Development Tax Credits**

For companies that are engaged in qualifying R&D activity, significant tax reliefs exist that can either reduce the company's corporate tax liability or, for some small or medium sized companies ('SMEs'), provide a sizeable cash rebate.

The system works by giving a significant extra tax deduction against income on qualifying R&D expenditure which either reduces the taxable profits or creates/increases a taxable loss, thus reducing the corporation tax payable.

For SMEs, where the extra deduction creates or increases a loss the SME may be able to surrender the loss and receive a cash repayment. Alternatively these losses can be carried forward to future years and used against taxable profits generated later, when the commercial exploitation of the technology commences and the business starts to generate profits.

There are detailed rules about what is 'qualifying' R&D and you should seek advice if you believe your business may qualify. In broad terms, the activity must be 'part of a project to make an advance in science or technology'. The types of activities that do qualify are broader than it may seem and this relief is certainly not limited only to businesses operating in 'blue sky' research or those who wear lab coats - for example, many software companies qualify for R&D credits – indeed, those in more traditional sectors can qualify if they are working in truly innovative ways.

Qualifying costs may include:

- Employment costs – salary, employer's NICs and pension contributions
- Consumables – heat, light, power, chemicals, prototypes etc.
- Software
- Sub-contractor costs
- Costs relating to qualifying indirect activities, for example, admin, functions and training.

If your business is genuinely innovative in its use of technology then there is a fair chance it will be carrying out qualifying activity, and we would recommend you take advice in this area.

11. Growing the Entrepreneurial Business

Successful businesses tend to develop extremely rapidly. This speed of development means they have to address a wide range of business issues in a relatively short space of time.

Two of the key challenges a growing business will face are:

- Planning the availability of sufficient funding to facilitate growth and development; and
- The ability of the management team to deliver what the business needs at each stage of its growth

It is often the case that the entrepreneurs who founded the company will not be the right people to lead it in the long term, or at least not on their own, and therefore it is highly likely that the management team will change, grow and develop as the business does so. Indeed, it is not at all unusual for the mature successful business to have an entirely different management team from the ones who founded and led it in its early stages.

It is crucial that the management team plan and manage the growth of the company actively. Not having a plan or strategy may not necessarily mean that the business and its stakeholders will not achieve their objectives, but what is certain is that with a properly defined and implemented strategy they will significantly improve their chances of being successful.

As well as driving organic growth, a number of businesses will also have a strategy to grow externally. For some this will be through international expansion which opens up a world of opportunities, but also exposes the business to many new challenges.

Some companies will also have, as part of their strategy, a policy of acquisition of other businesses in similar or complementary areas of trade. The acquisitions may be opportunistic or the result of a specific search.

Irrespective of the way in which the acquisition originates, the process of acquisition is usually broadly similar:

- An offer will be made/negotiated
- Heads of Terms will be agreed
- Due Diligence will be entered into to ensure that the purchaser knows what it is really acquiring. The focus on the due diligence process is very much dependant on what the purchaser perceives to be the real value in the business and the nature of the entity being acquired
- Contracts will be finalised.

This is discussed in more detail (from the other perspective) in section 12.

Post-acquisition there will be other challenges – working out how the merged entity will operate; proper integration of employees; ensuring that common systems are adapted etc.

12. Exiting the Business – Trade Sale

The majority of successful businesses will be looking to achieve an exit for the founders and investors in the medium term. This will typically be by way of either a trade sale or flotation (see section 13).

12.1. Planning to Exit the Business

It is possible that for some businesses a potential trade purchaser will have been identified almost at inception and even engaged as a commercial and/or equity partner in the business. If this isn't the case the management team should start to plan for the sale of the business at least a year before the anticipated exit date, and ideally much further ahead than that. The planning stage is crucial as if it is executed properly it will have a significant impact on the way any proposed buyer views the business.

For example, if a business is not properly structured, does not produce regular and reliable management information or is unable to produce signed copies of key documents, any potential purchaser is unlikely to be reassured that the business has been well managed. This will increase the level of perceived risk attached to the company and will reduce the price any purchaser is willing to pay.

Some of the key areas to address during the planning stage are considered below:

12.11. The People Running the Business Add Value for a Buyer

Ensure the management team is structured so that the business will be able to operate effectively post sale. Having a strong second tier of management in place will make the business more attractive to any potential buyer, given that typically the top tier of management will be looking to exit.

12.12. Being Organised Promotes Credibility

Ensure that the company's internal documents (especially those relating to intellectual property) are complete, up to date and easily available so that they can be provided to third parties during the sale process. This will need to include board minutes for all major decisions as well as contracts with key management, customers, suppliers and employees etc. Presenting the company as well managed and organised will help with the buyer's perception of the company's value.

12.13. The Value of Information

Any potential buyer will want to understand how a business has been performing and what its respective assets and liabilities are. Having an appropriate management information system in place to produce this information will show that your business places value on good financial management, reducing the level of perceived risk.

Part of the process of ensuring that good, reliable information is produced is to review the systems which operate over the company's key business cycles, such as sales, purchases, payroll and stock control.

12.2. Finding and Approaching Prospective Buyers

Having made a decision to sell the business the management team will need to find prospective buyers. The main ways to find a buyer are networking through the management's own business contacts and by using the networking skills and contacts of corporate finance professionals.

Having identified prospective buyers, an initial approach will be made which will generally take the form of a one or two-page memorandum clearly and concisely setting out the acquisition opportunity. It is often useful to use someone to act as an intermediary in this process.

12.3. The Information Memorandum

A key tool in marketing the business is the information memorandum. This document will be prepared by the management team and their corporate finance and accounting advisors to attract the attention of potential buyers. Commercially sensitive information should NOT be included in the information memorandum as some of the companies approached as potential buyers may be direct competitors of the business.

A good information memorandum will present the business in the best possible light, but must be truthful, accurate and complete. First impressions are very important and the business needs to be presented in such a way that prospective buyers will appreciate its value and be interested in entering a more detailed sale process.

An information memorandum is a substantial document which should emphasise those areas that are most likely to be of interest to any prospective buyer, while highlighting those points that may increase the value of the business.

As well as the output, the process of preparing the information memorandum can be very valuable. It brings a spotlight to bear on key aspects of the business being sold, illustrating strengths in the best possible light and providing an opportunity to identify and correct weaknesses before they are revealed by the buyer's due diligence.

12.4. Form of Consideration

There are three main types of consideration (payment for the acquisition), cash, shares and loan notes, and the consideration may well comprise of a combination of the three. There might also be an element of deferred consideration.

- **Cash** - The advantages of cash consideration include that it is known exactly how much will be received, and that it can be a clean separation from the business as there are often no remaining ties.
- **Shares (equity)** - Share capital is often used to tie in the existing business owners where it is anticipated their involvement will be required after the business is sold. This is particularly the case where the business is unquoted and therefore a ready market for the shares does not exist.
- **Loan notes** – Loan notes are instruments which are usually either redeemed for cash or converted to shares at some time in the future (the redemption date). Interest is usually paid on the value of the loan notes although the return on loan notes will depend upon the precise terms.

It is usual for an element of consideration to be deferred until some time after the deal. The amount may be dependent on the future performance of the business (an 'earn-out') and is, therefore, not known for certain at the date the contract is signed. The purchaser may offer the former owner of the business a consultancy contract for the earn-out period so their experience is still available for any new management.

12.5. Head of Terms

Initially several bidders may be negotiating with the company, but at some stage a preferred bidder will need to be selected. Whilst competition may drive the price up, purchasers are unlikely to be prepared to incur the costs of a detailed due diligence exercise unless they know that their offer has been accepted, subject to contract.

At this point, it is usual to agree ‘heads of terms’. These are an agreement in principle of the key terms of a possible sale of the business, and form the starting point for detailed contractual negotiations.

The following matters are normally covered in heads of terms:

- A description of what is being sold and any pre-sale conditions
- Details of the proposed consideration (amount, what form will it take, will any of it be deferred, is there an earn-out element etc.)
- Agreement of the scope of any due diligence (and any period of exclusivity)
- Confirmation that any agreement is subject to warranties, indemnities and details of any restrictive covenants
- A detailed timetable to completion.

These elements of the heads of terms are usually described as being ‘subject to contract’. Other conditions will be legally binding such as confidentiality agreements (if not already agreed), any exclusivity period and who will bear the costs of the negotiation.

12.6. Due Diligence and Contract Negotiations

Before prospective purchasers commit to buying the business, they are going to try and find out as much as they can about it in a process called 'due diligence'. The scope of due diligence will be agreed between the prospective purchaser and their advisors.

Where the due diligence process highlights any possible problems, these will usually be resolved by reflecting them as warranties or indemnities in the final sale and purchase agreement, or by agreeing a reduction to the purchase price.

12.61. Warranties

Warranties are used as a way ensuring that the sellers of a business confirm the full details of a certain element of the business, or risk being in breach of contract. If it is found that the sellers did not disclose their full knowledge and the purchaser suffers financial loss as a result it is likely they will be the subject of a claim for breach of contract. The amount of damages payable is determined by the purchaser's loss.

12.62. Indemnities

Indemnities are promises that the seller will make payments to the purchaser in certain circumstances. Common indemnities include promises to pay any tax liabilities which arise in the acquired company because of the previous relationship with the vendor, or underpaid tax, interest or penalties relating to returns filed by the vendor.

It is necessary to be extremely attentive to detail to ensure that the contract that will be signed accurately represents the terms that have been agreed. This process should involve not only lawyers in agreeing the contract but also tax advisers, who will be aware of the tax implications of any proposed changes to the terms or structure of the deal.

12.7. Post-completion

When the day of completion has passed, there will still be things to be done;

- Completion accounts
- Calculation of any deferred consideration
- Negotiation and settlement of any amounts claimed under warranties and indemnities
- Integration of the acquired business.

13. Exiting the Business – Flotation

A stock market flotation involves selling a percentage of the company's share capital on one of the stock markets. There are three stock markets in the UK. The largest and best known is the main market of the London Stock Exchange ('LSE') which is generally populated by large companies. Two smaller exchanges are the Alternative Investment Market ('AIM') and ISDX, both of which are specifically designed for smaller companies.

13.1. Do You Really Want to Float?

Floating is time-consuming and costly so is not suitable for every business.

Before a decision is made to float the business, discussions should be held with experienced brokers to evaluate the company's prospects of securing sufficient interest from investors to make any flotation successful and worthwhile. We would suggest seeking this advice at least two years before the intended date of float so that any potential issues can be dealt with in good time.

The success of a float will depend not only on the characteristics of the company, but also on market and economic factors at the time of flotation. Investors will only be interested in buying shares in a business if it has secure earning streams and strong growth prospects.

If a business cannot deliver the necessary growth that investors would seek, or it is found to operate in a relatively unattractive sector for investors, a trade sale, where the business is sold to another outside party, might be a more viable option.

13.2. Preparing to Float

When preparing to float, a business must ensure it is able to comply with the legal and regulatory standards required of a public limited company. It will also need to ensure that its accounting systems are able to produce the information required to prepare annual accounts and reports which comply with the stricter requirements associated with being a listed business.

During the preparation period the management team should seek to address any issues which might present a risk for an investor. This will include ensuring all regulatory filings are up to date, outstanding penalties and fines are paid and possible litigation (if any exists) is appropriately resolved.

The aim will be to present the company as an ideal, well run, investment opportunity.

13.3. Appointing Professional Advisors

Having the right advisors is a key element to a successful flotation. The management team may have limited experience of the demanding legal, regulatory, financial and marketing processes associated with a flotation and external help, while it is likely to be expensive, taking professional advice will be invaluable for several reasons:

- Using an advisor who provides poor advice could seriously affect a business' ability to attract investors and float successfully
- In addition, a stockbroker will be required to generate interest in the business in the investment community
- A corporate lawyer will be responsible for the legal due diligence process and for verifying statements in the prospectus and other documents

- A reporting accountant will be needed to review and report on the company's historical results, and perform financial due diligence.

13.4. Choosing the Correct Market

Choosing the correct market for the company and the size of investment it needs is very important.

13.41. ISDX

The ISDX market is aimed at smaller companies who are looking to raise up to £10 million. The requirements are not as stringent as those of AIM or the LSE and flotation and ongoing costs are lower. The pool of investors is primarily limited to private investors and liquidity in shares listed on ISDX is usually low.

13.42. AIM

AIM has a higher profile than ISDX, and has historically generated more interest from the investment community. It is part of the London Stock Exchange, sometimes referred to as its "junior" market. It is a more flexible regulatory environment than the Main Market with less stringent rules and generally lower costs. AIM listed companies can attract a wide range of investors, including institutional ones.

There is no minimum percentage of the company's shares which needs to be made available to the market, but if the company has been trading for less than two years at the date of the flotation the existing shareholders cannot sell their shares until at least one year after flotation. A nominated adviser (Nomad) is required at all times which, amongst other reasons, means the ongoing listing costs will be higher than those on ISDX.

13.43. LSE Main Market

This market is generally only suitable for the largest of companies. A company listing on the main market needs to have been trading for at least three years and is required to float a minimum of 25 per cent of the company's share capital.

The main market has the widest possible audience of potential investors and the regulatory requirements are correspondingly high as a result. The professional fees and costs of listing on the main market are much higher than those on ISDX or AIM. Admission documents for flotation on the LSE also need to be pre-vetted by the UK Listing Authority.

13.5. Flotation Price

Deciding on the right price for the business can be one of the most difficult aspects of a flotation. Most companies are valued on a multiple of their historical and forecasted profits and also on the basis comparative valuations recently achieved by similar companies.

A number of factors can influence the pricing decision. If the business is in an exciting, fast-growing sector or is the market leader in its field, investors may be willing to pay a premium for the shares. Getting the price right is critical – too high, and the company will not attract investors, too low, and the founders will be giving away value to the new investors.

13.6. The Flotation Process

A typical flotation will take a minimum of four months to complete, but could take as long as a year to ensure that everything is in place and the company is ready to go public. For this reason, it is important to ensure the management team do not allow the flotation to distract from the day-to-day business of running and growing the company.

13.6.1 Advantages

- Access to capital to enable the development of the business
- Once shares are traded on an open market they are easier to buy and sell, which will make them more attractive to investors
- If the management team intend to make acquisitions it is easier to offer shares in the company as consideration instead of, or as an alternative to, cash
- Offering employees extra incentives, such as share options, when there is a market for the shares is more attractive than offering share options in an unlisted business
- The greater status afforded to listed companies will raise the profile of the business.

13.6.2 Disadvantages

- The value of the business may be less than for a trade sale, especially if the company is trading in an unfashionable market
- The value of the business will become more vulnerable to market fluctuations
- Only certain businesses are suitable for floating. Good prospects for growth and an impressive management team are needed in order to attract investors
- The original management team will lose some or all control over the business as they will need to consider the interests of the external shareholders when making decisions
- The initial costs can be substantial
- The ongoing costs of listing and complying with the regulatory environment will be higher, as will the demands this places on management time
- Exit may only be for the initial investors, not the management team who may need to be retained in order for the flotation to be a success.

14. Contact Us

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