Announcer (4s):

Welcome to the Maximize Business Value Podcast. This podcast is brought to you by Mastery Partners, where our mission is to equip business owners to maximize business value so they can transition their business on their terms. Our mission was born from the lessons we've learned from over 100 business transactions, which fuels our desire to share our experiences and wisdom so you can succeed. Now, here's your host CEO of Mastery Partners, Tom Bronson.

Tom Bronson (35s):

Hi, this is Tom Bronson and welcome to Maximize Business Value of podcast for business owners who are passionate about building long-term sustainable value in their businesses. This podcast is part of our series with speakers from the upcoming Business Transitions Summit. The Business Transition Summit, or b t s as we call it, is our event on May 2nd, 2023. And it's for business owners to learn how to maximize the value of your business and begin preparing for your ideal transition. Every business on the planet will eventually transition some by design, some by default.

Tom Bronson (1m 16s):

I would argue that it would be better to do it by design. And if you come to this session, to this Business Transition Summit, you'll learn how to design your ideal exit. Registration is open. Now, you've already missed early Bird, but you can still get advanced registration, which is a hundred dollars off. So go to business transitions summit.com. That's transitions with an S business transitions summit.com. In this episode, I'd like to welcome our guest, David Hammer, who is the principal at DW Hammer and Company, Inc. David will be one of our featured speakers at the Business Transition Summit, and he'll be speaking about 10 things you need to know when preparing your business to exit.

Tom Bronson (2m 1s):

So, David, you're no stranger to maximize business value, welcome back to our studio.

David Hammer (2m 8s):

Thank you, Tom. It's good to be back. It's been a while since episodes 1 0 1 and 1 0 2.

Tom Bronson (2m 13s):

Look at that. You remember the numbers or did you look 'em up before we got on here? So I remember those. Those are classics. And for our folks listening today, if you haven't heard 1 0 1 and 1 0 2, you need to get back to that. Those are two of our most downloaded episodes. Lots and lots of wisdom from David Hammer and those two. In fact, when we first set out to do it, it was supposed to be one podcast, but it was so good that we decided to break it up into two. So tell us a little bit about your practice and what you do for a living, David.

David Hammer (2m 48s):

The bulk of what I do is represent buyers and sellers of companies. That's been the core of my practice since I became an attorney, attorney in 1978 and remains the core of my practice today. Immediately upon conclusion of this podcast, I will commence review of a definitive agreement for a 20 million acquisition, and that's a, a very standard day in the life of my practice.

Tom Bronson (3m 20s):
But not only the legal work, little known fact, of course, our audience may already know this, but you're a, you're an attorney, but also a C P A. So when you look at these transactions, you can look at 'em with a discerning eye of what's the tax consequences as well. Right.

David Hammer (3m 36s):
One thing you've probably heard me say before is that acquisitions are one part law, one part tax, one part gap accounting, and one part psychology. Yes. So yes, the, the tax is definitely one of four very important components.

Tom Bronson (3m 56s):
Yeah. The, I'm not so sure that it's not one part law, one part tax, one part and, and, and five parts psychology. I've seen certainly some of those deals as you know, so you are,

David Hammer (4m 12s):
Could be slashed little thinner, that's for sure.

Tom Bronson (4m 16s):
So you're speaking at the, at the session titled, preparing Your Business Exit 10 Things You Absolutely Must Understand at The Business Transition Summit. Tell us a little bit about what you're gonna cover in your session.

David Hammer (4m 31s):
Well, the first thing is it's no longer 10, it's 11.

Tom Bronson (4m 36s):
Oh, okay.

David Hammer (4m 37s):
And important thing for you to note, because I've added a, an additional element to reflect the prevalence of rollover interests as part of the acquisition arrangement. So rollover interests have become so common in transactions that I felt like it was time to dedicate some presentation time to that concept. Now, rollover interests are very much like all of the, the tool, the other tools in the buyer's toolbox. They are designed to enhance the buyer's return on investment post acquisition, but they're one of just many tools that the buyer users.

Tom Bronson (5m 24s):
So that's the 11th thing you're adding to that, to the session.

David Hammer (5m 31s):
Yes.

Tom Bronson (5m 31s):
Instead of just being 10 things. So, and

David Hammer (5m 34s):
Coincidentally, in addition to enhancing roi, those 11 things have one other common characteristic. Each and every one of them have the effect of either reducing or delaying cash to a seller coincidence, I think not, which suggests that sellers need to be prepared to negotiate opposite a buyer strategy and to be prepared. They need to know what that strategy is.

Tom Bronson (6m 8s):
Yeah. So many times in transactions, especially sellers who have not been through a transaction before, they just take everything at face value. And the reality is, is that there are, there are underlying strategies to every component of the, the purchase agreement. And, and you're right, you know, they're, they're trying to reduce their buyers are trying to reduce their cash out, lay upfront or delay that cash over some period of time. And if you're an unsophisticated seller, you may not see those things. So this is gonna be an important session for people to, to attend.

Tom Bronson (6m 48s):
Am I reading this right?

David Hammer (6m 50s):
Yes. The buyers are very experienced, very capable people, and have developed a set of tools that they apply in transactions on a regular basis. The typical seller may be engaging in his or her first transaction. As a result, they haven't developed negotiating strategies around the buyer's tools, and many times can be caught by surprise, be called unaware and suffered disadvantage as a result

Tom Bronson (7m 25s):
For many buyer or many sellers, this is the only transaction they'll ever have. Right? Yes. So it's so important to get this right the first time. Is there anything else that, that somebody who attends your session should expect to be able to learn?

David Hammer (7m 40s):

One of the things that I want to focus on is the concept of return on investment and specifically the buyer's return on investment, because ROI for short is a fundamental part of the buyer's rationale for buying a, a seller's business anyway. If, if they can't achieve a, an ROI that makes the acquisition attractive to them, given the risk reward aspect of mergers and acquisitions, then chances are they'll move on to one that's more attractive. And so, if you're a seller, understanding the buyer's ROI goals, even though they may not be communicated to you particularly well, is important in knowing how they're going to approach the acquisition, the tools that they will use and the effects of those tools on you when you close.

Tom Bronson (8m 38s):
You know, it's interesting knowing that the, the return investment that buyers are looking for, many times I'll just come right out and ask, how are you gonna measure your return? And, and many times they're coy with me, right? They don't want me to know that, but I, if I understand it, perhaps I can help you and be in lockstep with you. Right. So I think that that's silly in, in my opinion. Do you see that? Do are sellers coy with you when you're asking that question?

David Hammer (9m 10s):
Sellers typically want to talk about other things. They, they want to talk about themselves. Mm. And what capable people they are and what great post-closing partners they are. When you start to hear that as part of their sales pitch, you know, immediately that they are planning on your ongoing participation after closing. And that partici your participation after closing is invariably going to cost you cash at closing because whatever they assign as your rollover interest, as part of the enterprise value, you will not be receiving in cash.

David Hammer (9m 52s):
So whenever, whenever salesmanship starts, you'd better hold onto your seat because it's going to cost you cash.

Tom Bronson (10m 1s):
That's, that's true. Words were never spoken. Well, without giving much more away on the presentation, you clearly you're passionate about this topic. Where does that passion come from?

David Hammer (10m 16s):
I suppose it came initially from the very first transaction I worked on. When I graduated from college, I took position with Deloitte and after I'd been there about four months, I was selected to be the junior member of the due diligence team and the acquisition by Chase Manhattan Bank of Do Finance company. And as the junior member of that team, I was part of a group of six people that went around the country doing many audits of small offices of doll finance that was being acquired by Chase. And that was just great fun and had an opportunity to work on another transaction or two at Deloitte and decided that perhaps the opportunity to continue in that vein would be enhanced if I had a law degree as well as c p a certificate.

David Hammer (11m 13s):
And so I went back to law school, became an attorney, took a position with the Dallas law firm that had just picked up a New York Stock Exchange client that was one of the largest in its area of product line. And my acquisition career started in earnest then and ultimately represented that company in another New York Stock Exchange company in a total of 34 transactions. And so by that time, my career path was set.

Tom Bronson (11m 45s):
That is awesome. How fortunate that, that you fell into that, because I know that you're really passionate about this and how fortunate that you were able to, to get into that, that first deal as one of the junior members of the team and then, and, and see that as your path forward. I love that. And it, it, it bears saying again, what qualifies you as a speaker on this topic?

David Hammer (12m 14s):
180 closed transactions enterprise value. Right around 1.5 billion in the aggregate. Wow.

Tom Bronson (12m 23s):
One 5 billion.

David Hammer (12m 25s):
Lot of transactions, a lot of enterprise value. Seen a lot of tricks on the buy side

Tom Bronson (12m 34s):
Now, and you, you typically these days are doing most of your work on the buyer side or on the seller side?

David Hammer (12m 43s):
Most of it is on the seller side. I've done a couple of buy side transactions in the last year, but most of it is seller work.

Tom Bronson (12m 52s):
Yeah. So, you know, but you've done enough on the cell side where, where you know what's coming and, and, and know how to deal with those things and help people understand it. That's,

David Hammer (13m 5s):
As I mentioned a little bit earlier, I have the latest iteration on my desk to start on immediately after this call. Yeah. But I know what's gonna be there, and I haven't even opened the first page cause it's gonna be more than one of these 11 tools that I'll be talking about on May 2nd.

Tom Bronson (13m 23s):

Yep. Do you ever play a game and, and see if you, how many of those tools are gonna be in the agreement?

David Hammer (13m 31s):

No, I've, I really don't. It's it's usually north of five. Yeah. Though,

Tom Bronson (13m 39s):

Yeah. I I guess with the more sophisticated buyers, the higher the number probably.

David Hammer (13m 45s):

Sure. Because they do it all the time. Exactly. They, they know all the angles

Tom Bronson (13m 50s):

And they're counting on

David Hammer (13m 51s):

About using them.

Tom Bronson (13m 53s):

They're counting on the seller, this being their potentially only or one of a very few transactions. So they're looking to pull all of the tools out and see what, see what sticks, throw 'em against the wall and see what sticks. So

David Hammer (14m 10s):

Most buyers believe that, that most sellers these days will have very capable representation. And in fact, I don't know of a single buyer who wouldn't say that it's much easier to close a deal with really good people on the other side than it is with people that are not quite as experienced or quite as knowledgeable about the space. Right. So even though it may be counterintuitive to some, having really good representation on both sides of the transaction actually makes it easier. The, the thing that that buyer is counting on more than anything else, whenever it begins to deploy its toolkit though, is the seller's desire for cash at the closing.

David Hammer (14m 59s):

And the buyer's objective is to whittle that desire down as much as they possibly can in order to close the transaction. Of course, the seller's objective is exactly the opposite, but you have the push pull of a, a buyer who's wanting to enhance their roi and a seller who's wanting to get as much cash as possible to closing. And, and that's truly a push pull

Tom Bronson (15m 27s):

For sure. But I, but I couldn't agree with you more completely that if you have really good competent counsel on both sides, then it does make the process smoother and probably less costly.

David Hammer (15m 41s):
Definitely smoother, definitely less costly. Most people in the process these days start with a non-binding letter of intent. And I will frequently have clients ask how long I expect the process to take once the letter of intent is signed and my stock answer is 53 days. Now they're, they're amazed with that answer and they wonder how I can possibly be so precise. But the reason it can and is, is because most letters of intent have what's referred to as a no shop provision.

David Hammer (16m 24s):
Buyers don't want to get in, spend a lot of money investigating a seller only to have the seller sell to somebody else at the last minute. And so there's a provision that says seller won't talk to anybody else or sell to anybody else for the duration of the snow shop. And typically the no shop is 60 days and the buyer hustles through the process and a week before the expiration of the no shop, you close, that's day 53. And, and it works out all the time. It is amazing how often it works out.

Tom Bronson (16m 59s):
That is hilarious. I don't know how in the world I've missed that step from you, but you're absolutely right. And, and when you said 53 days, I'm sitting there going, how can you be so exact on that as soon as you started going down the path of the no shop? I got it. It made sense. Yeah. But I've done a lot of transactions. Right. And for someone who's never done a transaction, they they wouldn't understand that. And so,

David Hammer (17m 23s):
Well, it's a logical question. You don't wanna take your business off the market for a year or 180 days. And so it's, it's absolutely right that they would be concerned and interested in your professional assessment of how long it will take.

Tom Bronson (17m 41s):
Yeah. By the way, just, it, it, it is worth mentioning to our listeners out there who are paying attention to this, if you get an loi, please do not sign it until you talk with someone like me or David, the la the worst thing in the world is, I'm sure you've had this happen, someone called you and said, Hey, I just signed a letter of intent yesterday, can you help me?

David Hammer (18m 7s):
And, and it's, it's difficult even though the letter of intent is not binding. Right. What, what happens whenever a seller signs a letter of intent without the benefit of counsel is that they have forfeited the opportunity to do what I refer to as shaping the battlefield. Because you really do have the opportunity in a non-binding letter of intent to get all of the issues that could be impediments to closing out on the table and agreed to right then before anybody has spent any significant amount of time and money on the effort.

David Hammer (18m 50s):
And it's, it's the, the benefit of both sides that that be done at the letter of intent stage. Because if it is done, then you will close in 53 days and if it's not done, you may get down to the closing table and have any number of issues that can stand in the way of a completed transaction.

Tom Bronson (19m 10s):
Yep. I agree. I agree. Well, there are, so you're gonna be in one of our concurrent sessions at the Business Transition Summit. There will be three other sessions going on at the same time. Why should a business owner who's attending the summit plan to attend yours over one of the other three sessions?

David Hammer (19m 27s):
Well, I don't know what the other three sessions are. And so that's a, that's a difficult question to answer, but I would put it this way, if you are contemplating the sale of your business or are contemplating purchasing a company to enhance the size and growth rate of your business, then it, it makes sense to attend this session. Or if you simply have an interest in the space and would like to learn more about it.

Tom Bronson (20m 0s):
Awesome. Awesome. I, I know that it will be a very well attended session and I'm looking forward to that myself. I, I haven't even looked to see what, what the competitive sessions are because I want to be sure that I'm in this session cuz I want to hear it. So one last business question. This podcast is all about maximizing business value. David, can you give us one important thing that a business owner should do to build long-term sustainable value in their business?

David Hammer (20m 32s):
I think I say regularly to audiences whenever I speak that there are three things that define a successful business. There are three things that enable a business to be sold. Those three things are earnings, earnings and earnings.

Tom Bronson (20m 53s):
I've heard you use that before. So, so is it safe to say that that would be something a business owner should focus on?

David Hammer (21m 3s):
Absolutely. There, there's nothing more important than, than your earnings. And, and also think about it from the buyer perspective and I'll, I'll return to the ROI reference that I made to the buyer. If you think about return on investment, very simply, return on investment is what you make divided by what it costs you. Very simply, every buyer starts with a, a baseline of the seller's earnings for the trailing 12 month period, concluding at the closing date. So that number divided by what they're paying for the business is their initial roi.

David Hammer (21m 49s):
Everything they do after that point is designed to improve that r o i and they really do believe because of their experience in the state and or space and general expertise that they will be successful in doing that.

Tom Bronson (22m 9s):
That's, that is awesome advice. You know, something on the order of 98%, 97, 90 8% of all transactions are based on earnings. And most people don't realize that. I mean, we get those oddball anomalies every now and then that are based on revenue, particularly recurring revenue. But, but earnings is very important. And so I I would tack onto that, be sure that you understand EBITDA and adjusted EBITDA and get somebody in your court to help you understand those numbers and, and how they work. So that is a great piece of advice. And speaking of advice, what advice would you give your 18 year old self

David Hammer (22m 54s):
18 year old self? When I was 18 and started school as an accounting major with a goal to end up in public accounting, ultimately Deloitte, I focused exclusively on becoming technically proficient. Same whenever I went to law school, same whenever I joined the law firm. But the best advice that I would offer an 18 year old is don't neglect the importance of relationships to your professional development network, build relationships.

David Hammer (23m 38s):
Because without the network and without those relationships, you may find yourself with less than interesting work to spend your time with. So it's, it's very much about the relationships that you have. And I have been blessed with many mine with you of course is one of the valued ones. But it's, it's very important. And many times an 18 year old can be so focused on technical competence that they forget the importance of relationships to their overall professional development.

Tom Bronson (24m 15s):
So what's the irony on this? If I was giving advice to my 18 year old self, the relationship part I had down it would be focus a little more on the technical proficiency.

4 (24m 32s):
So

Tom Bronson (24m 33s):
The, the polar opposites here of our 18 year old selves. So

David Hammer (24m 38s):
Perhaps the, perhaps the message there is focus on that, which takes you out of your comfort zone. If, if

relationships are your comfort zone, focus on technical expertise. If technical expertise is your comfort zone, focus on relationships. But you can't, you can't focus on just one. You have to be that is wisdom package.

Tom Bronson (25m 4s):
That is wisdom right there. You're absolutely right. Go to the place that, that you're beyond your comfort zone. You don't get any better unless you push beyond that limit.

David Hammer (25m 14s):
Right. Exactly right.

Tom Bronson (25m 15s):
So awesome. How can our viewers and listeners get in touch with you?

David Hammer (25m 21s):
Easiest way is by email. I'm fanatical about responding to email and my email address is DW hammer, david w hammer pc.com. PC stands for Professional Corporation.

Tom Bronson (25m 39s):
Awesome. Awesome. David, again, so much fun to have you on the podcast and thank you for being our guest today and we look forward to seeing you at the upcoming bts.

David Hammer (25m 49s):
I'm looking forward to May 2nd.

Tom Bronson (25m 51s):
You can find David hammer@dwhammerco.com or on LinkedIn. And of course you can always reach out to me and I will be happy to make a warm introduction to someone I have developed a wonderful relationship with through the years. This is the Maximized Business Value podcast where we give practical advice to business owners who are passionate about building long-term sustainable value in their business. Be sure to tune in each week and subscribe to our channel wherever you found this, so that you'll never miss another episode. Until next time, I'm Tom Bronson reminding you to go register today for the Business Transition summit@businesstransitionsummit.com so you can learn how to maximize business value.

Announcer (26m 44s):
Thank you for tuning into the Maximized Business Value podcast with Tom Bronson. This podcast is brought to you by Mastery Partners, where our mission is to equip business owners to maximize business value so they can transition on their terms, learn more on how to build long-term sustainable business value and get free value building tools by visiting our website, www.masterypartners.com. That's master with a y mastery partners.com. Check it out.

5 (27m 19s):

That was perfect. I wouldn't make any changes on that.