



Profitable Ideas for Automobile Dealers

Tax Considerations for Buying or Selling a Dealership

Part 1



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Dealership franchises cannot be bought or sold. However, that does not change the fact that stores are bought and sold on a regular basis. With today's record multiples for dealership operations, we want to provide you with a few thoughts if you are actively participating in the buy/sell market.

If you are selling, are you selling to an employee over time or selling out completely? If you are buying, are you doing a buy-in over time or are you buying outright? Each of these scenarios creates its own set of challenges and questions. Your individual position in a transaction changes everything.

This month we will focus on the buyer side of the transaction. Over the next two months, we will focus on the seller side. Our discussions are not intended to be all inclusive but to assist you in the process of making informed decisions and avoiding major mistakes.

There are two basic ways to acquire a dealership. You can purchase the assets (new, used and parts inventories, fixed assets and goodwill) or you can purchase the owner's stock/entity. While the largest majority of transactions are asset deals, do not rule out an entity purchase without an in-depth analysis of the transaction.

The chart on page 3 gives you the tax treatment for the most common categories purchased in a transaction. It shows the differences between an entity purchase and an asset purchase.

There are many issues other than taxes to be considered when acquiring a dealership. Several are listed below:

- Use an attorney experienced in dealership transactions.
- Develop a due diligence plan.
- Do not put too much reliance on the dealer's monthly statement. Reconcile the statement to the tax return to gain comfort with the historical results of operations.
- Obtain market effectiveness and units in operation data to determine any up-side potential of the target dealership.

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- Make all agreements contingent on manufacturer approval, including facility compliance with manufacturer image requirements.
- Understand the process to be approved by the manufacturer(s) as a new dealer.
- Determine working capital requirements, debt to equity limits, and sources of funds.
- Specify the purchase price (or method to determine purchase price) for each category of assets purchased.
- Limit assumed contracts to specified list.
- Obtain proof that new vehicle inventory units have not been reported as sold to the manufacturer.
- Obtain damage disclosure of any new inventory.
- Determine what is to happen to the DMS of the selling dealer.
- Determine that the non-compete of selling dealer includes not investing in a dealership and not hiring any employees.
- Ensure the factory tool program is up to date and meets manufacturer standards.
- Ensure all taxes are paid by the seller. In certain states, the liability can be transferred to the buyer.
- Allocate the goodwill individually if there are multiple franchises.
- Allocate personal goodwill to individual franchises.
- Close dealership the prior Saturday and Sunday if closing is scheduled for Monday.
- Determine if there are any dealership obligations for employee benefits.
- Determine if there are any dealership obligations for warranty programs, tires for life, maintenance programs that you need to consider.
- Determine if this is an entity purchase where the considerations grow exponentially.

The asset purchase agreement is your tool to detail the terms of the purchase. It protects you, but it also obligates you to specific performance. While we would all like a one-page agreement, be prepared for twenty-plus pages; then read them all and question everything you do not understand.

We hope this article will provoke thoughts and questions as you begin the process of acquiring a dealership. Whether it is your first acquisition or tenth, our professionals are available to assist you. Please contact our office for more information.

Are you selling? Do you want to know how to improve your structure and help keep more of the dollars from the sale? Our next issue will address the family or general manager buy-in. Then, the final in this series will address the sale of the entire store. If you are actively selling today and cannot wait for the articles, contact any member of the team at Vawter, Gammon, Norris and Company P.C. for more information.

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Item	Asset Purchase	Entity Purchase
Blue Sky/Goodwill	15-year write-off	Not deductible
Personal Goodwill	15-year write-off	Possible 15-year write-off
Machinery, Equipment, Furniture	Typically 5 to 7-year write-off with accelerated expensing	Continues seller's prior method
Inventory	LIFO and trade discount option	Continues seller's prior method unless IRS grants permission to change
Consulting/Non-compete Agreement	15-year write-off	Not deductible
Employment Agreement	Term of agreement, could be challenged by IRS to be 15 years	Term of agreement, could be challenged by IRS to be 15 years
Real Estate-Owned by Entity		
Land	No depreciation	No depreciation
Building and components	5 to 39.5 years, depending on components	Continues seller's prior method and lives unless IRS grants permission to change
Real Estate owned by dealer or 3rd party	Same as above	Same as asset purchase



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