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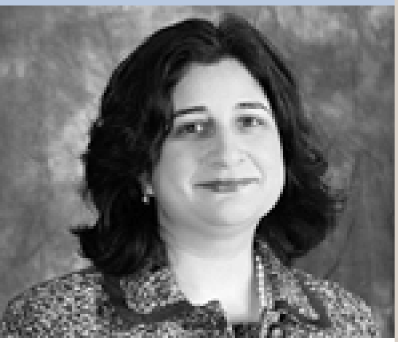

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Empire is one of the leading ESOP valuation firms in the country, performing in excess of 200 valuations annually for ESOP reporting and transaction purposes.

If you would like to learn more about Empire, please visit our website at www.empireval.com.

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ESOPS AS AN ESTATE PLANNING TOOL

By Anita Marie Biondo

There are many financial and emotional reasons for the owner of a closely-held company to sell his stock to an Employee Stock Ownership Plan ("ESOP"). An ESOP can be used to buy out the stock of a retiring shareholder and be an attractive alternative to selling the company to strangers. Generally, an owner of a closely-held company has most of his net worth tied-up in the stock of his company. When a company adopts an ESOP, it creates a market for the stock owned by the selling shareholder, provides liquidity for the selling shareholder, and is a means of diversification for the selling shareholder as he approaches retirement. In addition, an ESOP can offer the opportunity for the selling shareholder to maintain control of the company and set up successor management, while gradually reducing his ownership. Because ESOPs can provide a substantial incremental economic benefit to employees, many selling shareholders look at the sale of their stock to an ESOP as a source of employee motivation, as well as an employee benefit.

Sale to an ESOP can also provide substantial tax benefits for a selling shareholder. Section 1042 of the Internal Revenue Code (the "Code") offers tax-deferral treatment for capital gains on the stock of a subchapter "C" corporation ("C-Corp") that is sold to an ESOP. In order to qualify for the tax-deferral, the ESOP must own at least 30% of the outstanding stock of the subject company after the initial stock transaction. Additionally, the selling shareholder must reinvest the proceeds received from the ESOP transaction in qualified replacement property ("QRP" under the Code) within one-year of receiving the proceeds. QRP is generally stocks and bonds of domestic companies. If both these conditions are met, the selling shareholder can defer the capital gains tax until the QRP is sold. Further, once the ESOP acquires 30% ownership, any subsequent sale of stock to the ESOP may qualify for Section 1042 rollover treatment.

A significant estate planning benefit of a Section 1042 rollover is that the capital gain taxes can be completely avoided if the selling shareholder holds the replacement securities until death, when there will be a step-up in basis in the QPR equal to fair market value of the property at the date of death.

Note, however, that when a selling shareholder elects tax-deferral treatment under Section 1042, the election limits the selling shareholder, certain family members of the selling shareholder, and shareholders owning over 25% of any class of stock of the company from participating in the allocation of the ESOP shares attributable to the Section 1042 stock. Further, the ESOP is required to hold the stock for at least three years, or the company will be liable for a 10% penalty tax, based on the value of the stock sold to the ESOP.

Nevertheless, despite these limitations, establishment of an ESOP can provide an effective liquidity mechanism for an owner of a privately-held business and can provide considerable estate planning benefits.

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