

Selling Your Business without Paying Any Taxes Special Report

If you are a business owner and contemplating the sale of your business, consider Section 1042 of the Internal Revenue Code. It continues to be one of the best tax deals in town. Here is how it works.

Suppose I own a business worth \$10 million dollars. Suppose further that I am sick to death of work and would like to retire, but I do not have any children to inherit my business. XYZ Co. wants to buy my business assets, but because my business is a C Corporation, that deal will tax me to death. This is not good: I do not really want to continue, but cannot really afford to sell. My employees are the key to my business and the management team is first rate, but the bunch of them cannot borrow enough money to buy my business. While my banker loves me, there is no way my bank would lend me or my Company \$10 million dollars, much of which would have to be secured by goodwill. I need more facts.

Enter American Fortune Mergers & Acquisitions, LLC, which has helped many business owners take advantage of section 1042 in many employee stock ownership plan (ESOP) transactions. ESOPs are not for everyone, but in this situation they sound pretty good. In a nutshell, my company would create a type of retirement plan known as an ESOP or employee stock ownership plan, which would buy my stock, not my company's assets. That sounds good. The ESOP would pay me the appraised value of the stock. You mean it's not going

to steal the business from me? As long as I reinvest the proceeds in securities in accordance with section 1042, I do not pay tax on the sale until I sell the replacement securities. Under current law, if I die holding those securities, my heirs will be able to sell those securities without tax.

How does the ESOP come up with \$10 million dollars? The ESOP could borrow the money from the Company; except the Company does not have \$10 million dollars and the bank will only loan the company \$5 million dollars and even that is a stretch. I would be willing to carry the difference with seller financing but not if that blows my chance to use section 1042.

The solution to this dilemma is commonly known as the one day loan. The Company borrows \$5 million dollars from the bank under regular terms and another \$5 million dollars for one day. The Company loans the \$10 million dollars to the ESOP. The ESOP pays the \$10 million dollars to me for my stock. Then I loan the Company \$5 million dollars and it pays off the one day loan. Haven't I messed up section 1042? No. I have twelve months to purchase the section 1042 replacement property. I go to a bank and purchase the replacement property (high quality securities) and borrow cash on that property. Frequently, banks will lend me up to 90% of the \$10 million dollars. I use \$5 million dollars of the loan to loan to the Company above for it to pay back the bank. The Company pays me back over time.

If I had caused the C Corporation to sell the assets to a third party and liquidated the corporation, I would have netted about \$5.2 million dollars, assuming zero basis in the assets and the stock. However, using section 1042 and an ESOP as described above, results in my gaining access to \$9 million dollars in cash without paying tax currently.

All this sounds pretty easy - and it can be if you have the right team of experienced professionals to help you with the details. American Fortune Merger & Acquisitions, LLC teams with other firms, like Stoll Keenon Ogden PLLC, to ensure business owners have access to the finest resources available when pursuing employee stock ownership plans.