Perspective

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Ellin & Tucker, Chartered
CERTIFIED PUBLIC ACCOUNTANTS AND BUSINESS CONSULTANTS

Baltimore
SUITE 1300
100 SOUTH CHARLES STREET
BALTIMORE, MD 21201-2714
410-727-5735 / F: 410-727-1405

Washington
SUITE 250
655 FIFTEENTH STREET, NW
WASHINGTON, DC 20005-5701
202-638-0902 / F: 202-638-4311

Frederick
SUITE 105
30 WEST PATRICK STREET
FREDERICK, MD 21701-5589
301-696-1926 / F: 301-696-1933

Belcamp
SUITE 302
4692 MILLENNIUM DRIVE
BELCAMP, MD 21017-1535
410-272-1680 / F: 410-272-4290

www.etnet.com

Do you know what your competitors are up to?

There are many ways of finding out …

It's a safe guess that most business owners are a competitive sort. Very few, if any, companies have no discernible competition, and staying ahead of those rivals is part of the challenge — and thrill — of owning a business.

Do you know what your competitors are up to? You may catch wind of some of their more major efforts, but knowing the smaller details can help, too. Fortunately, there are many ways of finding out what your rivals are doing.

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Boot up your computer

Years ago, public companies may have had annual reports, but many private businesses had little more than the odd marketing pamphlet. These days, every company has a Web site chock full of background information and product and service descriptions, and, in some cases, detailed indications of where the business is headed.

You might also check into what and how your competitors are doing in the ever-expansive world of online social networking. Many companies are represented on sites such as Facebook, Twitter and LinkedIn. And there's nothing stopping you from perusing their profiles and even interacting with them to gain information.

To find the type of information that doesn't appear on company Web sites, you could try online research companies. For example, Lexis.com can search for liens (including tax liens) on competitors' property. It can also disclose financing sources and the nature of assets competitors have pledged as collateral. And don't forget credit-reporting agencies such as Dun & Bradstreet. These generally provide financial data, management and ownership information, and payment histories.

Don't neglect the tangible world, either. That rival company's catalog that you've been pitching in the recycling bin could have a wealth of useful information. And be sure to subscribe and pay careful attention to periodicals that cover your industry. (Read the ads, too. That's where your competitors may show up.)

Pick up the phone

In some cases, keeping tabs on your rivals may be as simple as talking to them. Here's how it

Something else to get from competitors: Employees

Competing with rival companies can inspire some great ideas and invigorate you and your staff to go the extra mile. But you may be able to get something else from your competitors as well: employees. With so many businesses laying off workers, now may be the time to pick up some A-list staffers from your rivals and, if necessary, lay off C-list employees who are dragging down your company.

Obviously, you'll need to know whom to look for on your competitors' staffs should layoffs occur. And it's here that doing some intelligence gathering on your competitors beforehand (see main article) can really pay off. Trade shows, conferences, professional meetings and educational programs are often good neutral places to seek out experienced workers who may be looking for a new team.

Naturally, you need to be sure to steer clear of legal entanglements, so consult your attorney before undertaking any such effort. For instance, you'll need to make sure any potential hire isn't restricted by a noncompete agreement. And, when it comes to letting go of your own C-listers, exercise similar discretion. Know your legal risks beforehand and undertake any chosen terminations with care and caution.

might work: Assign several staff members to each of your major competitors. Then ask your employees to call them and buy some products or services, or at least inquire about them. This practice, often called "competitive shopping," provides an insider's view of how your competitors serve their customers. Instruct your employees to note things such as:

- Customer friendliness,
- Knowledgeability,
- The amount of time callers are put on hold, and
- Responses to challenging questions.

Also scrutinize the products or services you receive, as well as the bills or invoices. Then you can react. For example, you might learn that one of your competitors is charging its customers hidden fees. In response, you could launch an ad campaign promoting your own hidden-fee-free billing practices and grab part of their market share.

Check out a trade show

Understandably enough, you probably wouldn't be comfortable walking through your toughest competitor's front door, marching into the office of one of its representatives and unleashing a barrage of questions. But you can, essentially, do just that at a trade show.

Companies use these events to announce and promote new business strategies — including products, services, and mergers and acquisitions. Moreover, many companies don't provide extensive training for their exhibitors, simply telling them to be friendly.

You might even openly announce who you are and engage your rival's trade show rep in a bit of spirited debate. Why are your products/services better? At minimum, walk by a competitor's booth and pick up copies of its collateral and sales materials to pass along to your marketing team.

Increase your awareness

In an effort to save the best cliché for last, here goes: Knowledge is power. The more you know about your competitors, the better you'll be able to anticipate their moves as well as create your own countermoves and proactive measures. Start increasing your awareness today — your future success depends on it. ◆

Solo 401(k)s offer singular advantages

For self-employed individuals and owners of certain small businesses, several retirement plan options are available. One option that offers a number of singular advantages is the Solo 401(k).

High contribution limit

A Solo 401(k) is a type of profit-sharing plan designed for just one person. Perhaps its biggest advantage is that it may allow you to contribute more than you could to other defined contribution plans, such as a Simplified Employee Pension (SEP) or a traditional profit-sharing plan.

Specifically, you can fund a Solo 401(k) with a salary deferral of as much as 100% of the first $16,500 (for 2009) of your compensation, just as you could with an ordinary 401(k). But you also can make an "employer" profit-sharing contribution of up to 25% of compensation or, if you're a sole proprietor, 20% of your self-employment income (not including the salary deferral).

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The maximum contribution limit — combining both the salary deferral and the employer profit-sharing contribution — has gone up to $49,000 in 2009, with an additional "catch up" contribution of $5,500 for those age 50 or older.

Let's look at an example. Say your self-employment income is $100,000 in 2009. In this case, you could make a 401(k) salary deferral contribution of $16,500, plus contribute 20% of the $83,500 balance, or $16,700. This total of $33,200 is far greater than the $20,000 available with just a traditional profit-sharing or SEP plan.

Bear in mind, however, that, as self-employment income increases, the contribution limit advantage of a Solo 401(k) over SEPs and regular profit-sharing plans is reduced and eventually eliminated. This is because the $49,000 maximum applies to all three — except in the case of taxpayers age 50 or older, where the $5,500 catch-up contribution still gives Solo 401(k)s an advantage over SEPs, which don't allow this additional amount.

Additional pluses

Another attractive feature of Solo 401(k)s is their flexibility. You aren't committed to contributing a particular amount each year. So, in bad years you can reduce your contributions if you need to.

Additionally, if you have another retirement plan in place, you can likely roll it over to the Solo 401(k) so you have only one plan to manage. And you can control your investments by choosing self-directed funds with a reputable custodian. You can even hold

life insurance, real estate or other nontraditional investments within the plan.

Still another intriguing aspect of Solo 401(k)s is the potential availability of plan loans. Participants can borrow up to 50% of the account balance, up to a maximum of $50,000. Just remember that you must repay the loan with level payments made at least quarterly based on a market rate of interest, and the interest paid generally won't be deductible.

Something to consider

Solo 401(k)s have other limits as well. Perhaps the most significant is that you can't set one up if you have employees who'd be eligible to participate in a "qualified" retirement plan. You'd then need a 401(k) plan that covers them as well. Nonetheless, many self-employed individuals and owners of very small businesses have put these plans to good use in recent years. So they're absolutely worth considering. ◆

Handle life insurance with care to protect proceeds from taxes

If you're like many Americans, you own life insurance policies to provide for your loved ones after you're gone. Life insurance can also help you achieve other estate planning and business planning goals. Unfortunately, keeping life insurance proceeds free of income and estate taxes can get complicated. Let's look at some ways you can protect them.

Look into an ILIT

If you own an insurance policy on your life, the proceeds will be included in your estate and possibly subject to estate taxes, even if you designate someone else as the beneficiary. To avoid this outcome, consider using an irrevocable life insurance trust (ILIT) to own the policy.

For this strategy to work, you can't retain any incidents of ownership in the policy, such as the right to change beneficiaries or borrow against the policy's cash value. Your cash contributions to the trust to cover premium payments are considered taxable gifts, and a gift tax return may be required. But with proper planning you can minimize or even eliminate gift taxes.

When creating an ILIT, watch out for the three-year rule, which, subject to certain exceptions, will draw the proceeds back into your estate if you transfer an existing policy to an ILIT less than three years before you die. You can sidestep the rule, for instance, by having the trust purchase the existing policy from you for the policy's full fair market value, or by having the trust buy a new policy on your life.

Create the right buy-sell agreement

If you're a shareholder in a closely held C corporation with a buy-sell agreement funded by life insurance, the way the agreement is structured has significant tax implications. If it's a redemption agreement, in which the corporation owns policies on the shareholders' lives and uses the death benefits to buy back their shares, the insurance proceeds may trigger the corporate alternative minimum tax (AMT).

A cross-purchase agreement, in which each shareholder buys policies on the other shareholders' lives, avoids this AMT risk. It also gives the remaining shareholders the advantage of an increased basis in the acquired shares, which, of course, will reduce any gain and the corresponding income tax liability on a subsequent sale of those shares. The number of policies involved in a cross-purchase agreement can make them somewhat unwieldy, but the potential tax advantages often outweigh the administrative burden.

Avoid "for value" transfers

The transfer-for-value rule creates an exception to the general rule that life insurance proceeds are income-tax free to the beneficiary. Under the rule, if you transfer a policy or an interest in a policy for valuable consideration, the proceeds may become taxable to the extent they exceed any consideration or premiums paid by the transferee. And transfers aren't limited to sales: In certain circumstances, a simple change in beneficiary designations can trigger the rule.

The purpose of the rule is to deter speculation in insurance policies, but its language is broad enough to encompass seemingly legitimate transactions. For instance, if you transfer a policy to your child in exchange for his or her agreement to pay the premiums, you'll trigger the transfer-for-value rule.

There are several exceptions to the rule, including a transfer to a grantor trust, a partnership or corporation in which you're a partner or shareholder, or one of your partners. But there's no exception for transfers to a co-shareholder. So if you and another shareholder exchange policies on each other's lives, the proceeds from each policy will be taxable.

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Plan carefully

Without careful planning, life insurance proceeds can be subject to estate taxes, income taxes or both. The result? Your loved ones may receive only a fraction of the benefits you originally planned for them. Work with your financial or tax advisor to ensure the goals you desired when you first purchased life insurance are actually met. ◆

3 savvy year end tax planning moves for businesses

Given the state of the economy over the past year, tax planning is more important than ever. Here are three savvy year end moves to consider:

1. Time income and deductions for best results. To time things right tax-wise, you need to project what tax bracket your company will be in next year. If it appears you'll land in a higher one, accelerating income into this year can save you taxes because you'll be taxed at the lower rate.

Conversely, if you believe you'll wind up in a lower tax bracket next year, deferring income will save taxes. Even if you expect to be in the same bracket, deferring income may be beneficial because it allows you to also defer taxes.

If your business uses the cash method of accounting, you can defer income by delaying billing notices as you approach year end. If you use the accrual method, you can delay shipping products or delivering services until the new tax year, as long as you're careful not to disrupt customer relations.

2. To the extent possible, defer tax on advance payments. Do your customers make advance payments for products or services that aren't delivered or performed until a later year? (Examples may include license fees, subscriptions and warranty contracts.) If so, you may be able to defer some of the tax on that income.

Under the tax code, you may defer tax on advance payments to the extent they're reported as deferred revenue on your audited financial statements or are otherwise substantiated in accordance with IRS rules.

3. Look to increase your basis. Many shareholders in S corporations assume that they can deduct their share of the company's losses. But that deduction is limited to their tax basis. Thus, if you're an S corporation shareholder, ensure you have sufficient basis in your stock by year end to deduct any losses. Your tax basis is adjusted each year, increasing for income recognized, loans or capital contributions, and decreasing for losses recognized, distributions or loan repayments.

If you anticipate a business loss this year and your tax basis is insufficient, you can boost your basis by increasing your capital contributions or making a loan to the corporation by year end. The corporation might also make a deemed dividend election on its 2009 federal income tax return. (Caveat: The latter technique is available only if the business previously operated as a C corporation and has accumulated earnings and profits from its C corporation years.)

The tax basis rule also applies to other "pass-through" entities, including partnerships and limited liability companies (LLCs). But it's generally a bigger obstacle for S corporations because a shareholder's basis isn't increased by corporate debt, while a partner or LLC member may be entitled to a share of the entity's debt obligations.

The good news is that you may carry forward any disallowed deduction to future years. Also bear in mind that the rules regarding deduction of losses are complex and there are other areas to consider, including passive activity and at-risk rules. ◆

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Ellin & Tucker, Chartered
CERTIFIED PUBLIC ACCOUNTANTS AND BUSINESS CONSULTANTS
BALTIMORE WASHINGTON FREDERICK BELCAMP

SUITE 1300
100 SOUTH CHARLES STREET
BALTIMORE, MD 21201-2714

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