

## To Your Success

### LEGAL TIPS FOR CONSULTANTS

by Attorney Judy Gedge

**Y**ou wouldn't be alone if you've been dreaming about being your own boss.

If you have a specific area of expertise, perhaps you're thinking about hanging out a shingle and opening your own consulting practice. What could be better than sharing some of your knowledge and getting paid for it! Clearly, a dream come true. But it's important to remember that you are, in fact, operating a business (even though you can answer the phone in your pajamas from your home office). So, like any other business owner, you need to identify the legal risks associated with your consulting practice and take appropriate steps to minimize those risks.

Consultants furnish services in a myriad of specialized fields. These include environmental consultants, marketing consultants, risk management consultants, safety consultants, computer consultants, education consultants...and the list goes on. No matter what kind of expertise you have, the most significant legal risk you face as a consultant is the risk of the 'unhappy client.' Your client has hired you to address his particular problem. And from your client's standpoint, he's paying you big money to fix that problem. What happens if that problem isn't fixed? Unfortunately, it means you may be facing a lawsuit.

Let's take a look at Mary, an industrial safety consultant. Mary is retained to do a safety check in a client's manufacturing facility and furnish a detailed report with her findings. Mary completes her analysis and provides the report to her client. The report includes ten suggestions for improving safety in the facility. The client acts on Mary's report but unfortunately there's an accident on the shop floor nine months later. Before long, Mary is served with a lawsuit claiming that she was negligent (careless) in the services she provided.



It's possible that Mary missed something which a careful safety consultant would have picked up. But it's also possible that Mary did nothing wrong. For instance, Mary's client may have chosen to implement some, but not all of Mary's suggestions. Or the contractor hired by the client to make those changes may have done a poor job. Maybe Mary's report was based on erroneous or incomplete information that she obtained from the plant manager. Just because Mary gets sued doesn't mean she'll be held liable. She may be fully in the right. But one thing we know, Mary will be paying substantial legal fees to defend against the lawsuit.

What should Mary have done to protect herself? She should have made sure she had consultant's liability insurance (also called errors and omissions insurance). That way, her insurance company would satisfy a claim like this and they would pay the cost of defending the lawsuit. These are both important protections. In addition, Mary can minimize her legal risks by forming and properly maintaining a limited liability entity (such as an LLC).

Consulting is a great way to be your own boss but remember to take appropriate steps to minimize your liability and, in doing so, protect your personal assets.

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*The contributors to this newsletter are independent professionals providing general information. Business owners should consult an experienced professional for assistance suited to their particular needs.*

# USE THE PAST TO PLAN FOR THE FUTURE

by Yvonne Bruno, CPA, Fulco, DiTommaso, McMahon & Co., PC

**F**or an accountant, winter and early spring is the busiest time of the year. From the client's perspective, once the financial statements are completed and the tax returns filed, they are free to forget about last year and concentrate on current operations. Since normal business operations can put an undue amount of stress on a small business owner, they sometimes neglect to use the results of the past as a tool for a better future. Regardless of a company's size, it is good business strategy to set aside some time at least on an annual basis to review previous operations & future goals.

This procedure is common practice in large and medium size companies. Even a sole proprietor can benefit from this process. The key is taking the time to evaluate the company, and follow through on a plan of action. The following checklist can be used as a guide.

## PREPARATION

- Any discussions should take place away from normal business operations to minimize distractions.
- Key management people should take part in this process. If the company is a one-person shop, key participants could be the company's accountant or business advisor, attorney or any other individual whose business advice is relied upon.
- Have available the financial results of the prior year (i.e. balance sheet, income statement, etc.).
- Prepare other reports relating to operations. Most can be obtained directly from the company's accounting package. These could include sales by customer, analysis of sales and cost of sales by individual projects, and a comparison of the income statement to the prior year.

## MEETING

- Prepare an agenda and stick to it. It is important not to get sidetracked.
- Discussion of operations
- Are sales higher or lower than the previous year? Is there a particular reason for the increase or decrease? Where did most of the sales come from? If they were from primarily one source, is this revenue recurring? If not, what is our game plan for replacing this business?
- How did expenses compare with the prior year? Did any project take longer or shorter than expected to complete? What was the reason? Are operating expenses reasonable when compared with the revenue being produced? Can anything to be done to reduce overhead

costs? Are any equipment purchases necessary in the coming year? How will they be paid for?

- Is financial information being processed in a timely manner (i.e. billing, collections, deposits)? If not, how can this be improved?
- If there are any employees, is their work being performed adequately? Are any changes in staff necessary? Is the compensation and benefit package adequate for the size of the company?
- Has the company prepared a budget for the current year? Is it realistic?



## MARKETING & ADVERTISING

- Is the company's revenue mostly recurring or constantly from new sources?
- From what sources does new business come from? How do we nurture these revenue sources so they continue?
- Is there a current marketing program? Is it successful? How should it be changed?

## PLANNING

- Make a list of items to be addressed based on the above discussions. Determine whether the item should be addressed immediately (short-term) or whether more information is needed (long-term).
- Assign the item to an individual to complete, and include a date for completion or follow-up.
- Even if you are the only employee, this can be done with the help of your advisors.

Taking the time to review past operations, and using the results for planning is a valuable exercise. It enables the business owner to learn from the past, and use the information to shape the company's future growth.

# THE PROS AND CONS OF UPGRADING YOUR ACCOUNTING SOFTWARE

By Annabel Pedemonti, Accounting Software Services

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sers of accounting software packages such as QuickBooks and Peachtree are bombarded with offers to upgrade to the next year's version or the newest release within the current version.

There seem to be two distinct attitudes to upgrading to each new version of your software; either hang onto the familiar old version at all costs, or upgrade to each new version regardless of the advantages or drawbacks to the particular business. Often the first attitude belongs to the user and the second to his/her professional advisors.

There are definite advantages and disadvantages to upgrading to the most current version or release.

## ADVANTAGES:

- New features are added, often in response to users' suggestions and complaints
- New features may increase your productivity
- New features may give you additional useful information about your business
- Technical support may only be available for newer versions
- Payroll tax tables may be issued only for newer versions
- Professional advisors who access your data remotely will probably be using the most current version
- Each new version interfaces with an increasing number of other software programs

## DISADVANTAGES:-

- There may be significant cost involved particularly if you operate in a multi-user environment
- New versions continue to increase in size so that the processing of your transactions will be slower, and you may even have to buy a new computer
- The additional features may not be applicable or useful to your business
- The size of the new versions results in slower processing of your transactions
- There may be a learning curve, which will vary from one upgrade to another

When considering upgrading to newly released versions of your accounting software package you need to balance the pros and cons in light of your particular circumstances, in order to make the right decision for business.

# IS IT TIME TO RE-FINANCE YOUR BUSINESS DEBT?

By Betsy Angelone, FleetBoston Financial

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he topic is all over the news. Your co-workers and employees are discussing it at the water-cooler. Even your parents are discussing the historically low interest rates. It seems as though anyone with any type of debt at all has exercised the right to refinance. Whether it is a residential mortgage or a home equity loan, the time to refinance is now.

The same concept holds true for your business debt. For those business owners who financed capital expenditures (like equipment and software) even a few short years ago, it makes good financial sense to re-visit the way the debt is structured. The commercial mortgage should also be analyzed. What interest rates are being paid? What are the terms and conditions of the bank note? Most importantly, is there a pre-payment penalty if the debt is paid off before the term has expired? Even if the debt does have a pre-payment penalty associated with it, re-financing may still make sense. It just depends on whether or not the

savings with a lower interest rate is greater than the cost involved with prepayment. Your CPA should be able to assist you with determining which alternative makes sense.

And then what about that line of credit you have established with your bank. Chances are the rate you are paying is based on the Fed's prime rate plus a spread. The prime rate today is 4.25%. Perhaps when you initially took out the line of credit, your company was new, and there was more risk involved, and the line was priced accordingly. (Read "higher") If things have been going well for you financially then it is time to go to your banker to negotiate that interest rate! All of these activities will assist you in improving the cash flow for the business.

In any event, today more than ever, it is important to speak to your banker. The future success of your business and its growth is dependent on the ways in which you take advantage of the economy! GO FOR IT!!!

# IT'S NOT YOUR FATHER'S PRESS RELEASE –

## *New ways of helping the media tell your story*

By Andrea Obston, President, Andrea Obston Marketing Communications, LLC

**P**ress releases – the basic building blocks of public relations – aren't what they used to be. In days gone by, getting out a press release was as much handwork as brainwork. Once you got the story on paper, then you had to copy, fold and stuff it into envelopes. Paper cuts were a badge of honor in the PR profession.

Not today. Most releases are e-mailed, with some faxed and very few mailed. This change has revolutionized the way people doing PR put story ideas out to the media. Not just in the speed and ease of distribution, but in the way press releases are written.

Here are a few tips you'll need to make the most of the e-mail distribution of press releases:

**Subject Line** – This can be your only chance to get a reporter's attention. Like all of us, reporters get too many e-mails. So, make sure the subject line gets them to open yours. Make it direct (I usually say something like "Story Idea: ") and punchy.

**Format** – Put the good stuff first so that it fits on one screen. That may be your only chance to make your case to them. Besides, they certainly won't page-down to read the rest of the release if they can't get past the first paragraph. This tip isn't new. It's just more important with e-mail

than any other form of press release distribution.

**Mechanics** – Never use attachments. Reporters usually won't open them for fear of viruses. Cut and paste copy into the e-mail. And, to make sure the release can be read with any software, convert all text into Plain Text format.

**Tone** – E-mail, by definition, is a more personal form of communication. A quick note that leads into the release can make good use of e-mail as a person-to-person medium. Something like "Jane, as the technology reporter, I thought this would interest you." Things like this encourage a personal response from reporters even if the story doesn't interest them. We've been pleasantly surprised to get replies to such e-mails expressing interest in interviewing our clients on related topics. One reporter from the Wall Street Journal e-mailed me a reply to a press release on corporate downsizing with the following note: "I just did a story on downsizing, but can the person quoted here talk about another human resource issue I'm currently writing about?"

E-mail can be a valuable way to get your story told in the media. It requires some changes in the way you've done things in the past, but it's worth it and it sure means fewer paper cuts.



## MORE FEATURES: IS THAT A BAD THING?

by Andrea Lafleur, Lafleur Graphics

**T**he future of graphic design and printing is always changing. With every new software version comes new ways to design and new ways to produce printed materials. Likewise with every advance in hardware technology -- especially for copiers, printing presses, and personal computers -- there are cost savings to the producer and faster ways to produce.

There is no doubt that advances in computer technology have benefited the graphics industry. Typically each new software version brings added special effects and features that eliminate extra steps from before. Most designers would give three cheers to any new software that can help them increase productivity.

The trouble begins when excitement over new features clouds better judgment. Of course special effects are fun and we are compelled to use them. But there is a fine line between utilizing a special effect and showcasing a special effect. Balance and harmony in a design is

reached when usage of the special effect is tempered with tastefulness and functionality.

The availability of a wide variety of typefaces is a good example. Setting type for a printed piece used to be a tedious task, but now we have thousands of typefaces to choose from, with just a click of a mouse button. Carefully chosen, complimentary typefaces make a piece more interesting as well as functional. However, most certainly we all have seen a few pieces float through the mail or appear in printed advertising looking quite disheveled with too many varieties of fonts. A little variety is exciting but too much detracts from the overall message, causing the prospect to lose patience and toss it in the garbage.

So far, the end of software advancement is not in sight, as each year brings more design-preparation sophistication. What could possibly be the next new capability or special effect? The clue will be in the upcoming software. The technology, for the most part, will drive the trends.

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