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Shelf Space: What Would Dr. Evil Do?

We get calls all the time asking whether we can help set up a qualified small business stock (QSBS) stacking trust structure. And we certainly can. But like all good legal work, setting up trusts takes time, patience and money. So, before we agree to lead clients down that path, it is our ethical duty to make sure they understand how and, more importantly, why QSBS works.

For the uninitiated, QSBS allows an eligible shareholder to exclude some or all of the gain from the sale of stock in a qualifying C corporation. Section 1202 of the Internal Revenue Code generally caps the exclusion for each taxpayer, which is where stacking enters the picture. Transferring QSBS to multiple qualifying nongrantor trusts may allow each trust to claim its own exclusion — making the approach especially attractive to founders anticipating a very large exit.

So, we ask: “why is QSBS stacking right for you?”

And the clients say: *“Because if I sell my company for \$3 billion, and I want full 1202 coverage, I need to set up 200 trusts.”*

Don't get us wrong — we're happy to set up 200 trusts, provided you can find the beneficiaries. But when did the fabric of the startup culture start leaning so heavily toward 1202 “EXITMAXXING”?

The more important question is setting the right goals and metrics for success — and (in this hypothetical specifically), whether a \$3 billion exit for a gefilte fish company is a reasonable one. In this case study, we look at what that question really requires: defining founder success, evaluating the market opportunity, aligning growth strategy with exit goals and keeping venture hype in perspective.

Defining Goals and Founder Success

When we meet new founders, we encourage them to begin thinking about how they'll define success. It's always a moving target — never set in stone — because markets change, consumer preferences shift and opportunities appear unexpectedly. But having even an evolving sense of what “success” means is critical to actually achieving it for

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several reasons. Where a founder hopes to end up will influence the choices they make from day one. But the goal should also leave room to recognize the value of what they're building along the way. And nothing kills well-deserved pride like outlandish goals.

Evaluating the Market Opportunity

With all due respect to the *thriving* gefilte fish market — ground pike in jelly sauce doesn't exactly smell like a billion dollars. (In fact, it smells like something very, very different.) But even in the world of gefilte, there is room to win. What does win mean?

That depends on whether the market actually supports the founder's vision. So we start with the basic questions:

1. How much is being sold today?
2. Are there new customers or just legacy ones?
3. Is there something people are buying instead of gefilte fish — or something they're buying alongside of it?
4. Is there room to reconsider the ingredients, processes or marketing?

Etc.

There are no right, and very few wrong, answers to these questions. But they do matter. They help founders pressure test the size of the opportunity, revisit the goal as the business evolves and decide whether the version of success they're chasing still makes sense.

Aligning Growth Strategy With Exit Goals

Now that the founder is off to the races with at least a preliminary concept of the end goal in mind, the founder can start making choices that point in that direction. DTC vs. retail. Bootstrapping vs. welcoming dilution. Building a team vs. going solo. Moving fast or moving methodically (or both). And yes, "things may change" remains the operating assumption. But in our experience, a founder operating with a sense of destination has a far easier time developing a cohesive strategy for growth than one with grandiose plans to take over the world.

Keeping Venture Hype in Perspective

Finally, we try to encourage founders not to get too caught up with what they're reading on online. Yes, there are a few brands that get sold for a billion dollars. And yes, that's no small feat. But success is not measured only by exit size. Having a product that people love, rely on and buy repeatedly is success, even if it never becomes the next headline. Go ahead and admire the founders who have made CPG more relevant in the venture space (historically dominated by tech). But keep in mind that an exit for any amount means you built something someone loves and believes is worth buying — and that is an amazing accomplishment.

What's Next? Planning the Next Chapter After an Exit

After an exit, some founders step away from the business entirely. Others eventually feel the pull to build again. If they do, they bring more than a new idea to the table. They bring experience launching products, communicating with consumers, negotiating good deals and recognizing bad ones before they become expensive. That doesn't guarantee success, but it does mean starting over — with experience, perspective and a clearer sense of what kind of success they actually want to build toward. And this time, perhaps insisting their lawyer set up 200 trusts for themselves and their family.

The Takeaway: Define Success Before Structuring the Exit

The most successful brands are carefully planned, but not afraid to pivot. Understanding your market and opportunity can help you set a version of success that is ambitious, realistic and worth building toward — whether or not that merits 200 QSBS stacking trusts.

Not sure how to evaluate all the inputs that go into crafting brand strategy and exit goals? Find some time to speak with us on **Shelf Space**: the platform built by lawyers to have human conversations with human founders about building, scaling and eventually **selling** successful CPG brands.