

Selling a Business - CHECKLIST

PRE-SALE

	YES	NO
Have you spoken with your accountant in relation to the financial status of the business and tax implications of a sale (e.g. GST, capital gains and stamp duty implications)?	<input type="checkbox"/>	<input type="checkbox"/>
Have you spoken with your solicitor in relation to the transferability of the components that make up the business?	<input type="checkbox"/>	<input type="checkbox"/>
Have you arranged a Section 52 Statement to be prepared by your accountant?	<input type="checkbox"/>	<input type="checkbox"/>

TIP Ensure you speak with your advisers in readying your business for sale. There may be steps that you may take to maximise your business value or reduce your tax liability with proper planning. Depending on the level of complexity in your business, this is a process that can be started up to 3 years in advance.

Have you considered potential purchasers and what they will be looking for? Don't forget to consider your competitors.	<input type="checkbox"/>	<input type="checkbox"/>
Have you considered any adverse impact on the business that may occur with a change in ownership and whether these can be mitigated?	<input type="checkbox"/>	<input type="checkbox"/>
Have you checked to see if all relevant licences, permits and consents are up to date (eg liquor licence, gaming licence, food permit, outdoor dining permit, APRA licences etc).	<input type="checkbox"/>	<input type="checkbox"/>
Have you discussed any pending, ongoing or recently finalised litigation with your solicitor?	<input type="checkbox"/>	<input type="checkbox"/>

TIP Ensure that you complete a thorough assessment of the business together with your advisers before you list it for sale.

PRE-CONTRACT

Will you need confidentiality agreements for potential purchasers investigating your business?	<input type="checkbox"/>	<input type="checkbox"/>
Have you discussed the proposed terms and conditions of the contract with your solicitor?	<input type="checkbox"/>	<input type="checkbox"/>
If you own the business with other people, have you discussed succession planning and exit strategies with them?	<input type="checkbox"/>	<input type="checkbox"/>
Are there any material contracts included in the sale (eg customer or supplier contracts that are vital to the operation of the business)? Ensure that you provide copies to your solicitor.	<input type="checkbox"/>	<input type="checkbox"/>
Are there any equipment hire contracts included in the sale (eg ATMs, drinks fridges, coffee machines)? Ensure that you provide copies to your solicitor.	<input type="checkbox"/>	<input type="checkbox"/>
Are there any intellectual property rights included in the sale (logos, manuals, recipes)?	<input type="checkbox"/>	<input type="checkbox"/>
Are there any motor vehicles included in the sale?	<input type="checkbox"/>	<input type="checkbox"/>
Are there any domain names or social media accounts included in the sale?	<input type="checkbox"/>	<input type="checkbox"/>
Is there a management system included in the sale (eg purchasing software, a customer database)?	<input type="checkbox"/>	<input type="checkbox"/>
Have you prepared a list of assets owned and/or utilised by the business?	<input type="checkbox"/>	<input type="checkbox"/>
Have you prepared a list of the employees of the business?	<input type="checkbox"/>	<input type="checkbox"/>

TIP Before you have the contract prepared, work on a list of inclusions to identify everything included in the sale.

If the business is operated from a particular premises, is it intended that the purchaser will get a right to occupy this premises?	<input type="checkbox"/>	<input type="checkbox"/>
If the business premises is leased, is it on commercial terms and of sufficient length to allow a purchaser to recoup their investment?	<input type="checkbox"/>	<input type="checkbox"/>

TIP The landlord will need to approve any new tenant and can withhold consent if they consider the incoming tenant does not have sufficient business experience or financial resources to successfully run the business and ultimately pay the rent. You will usually be obliged to pay the landlord's costs and expenses of considering the request for consent.

Do you have finance on the business, and if so, do you understand any requirements that your lender has before settlement?	<input type="checkbox"/>	<input type="checkbox"/>
Are any of your assets subject to financing arrangements? Have you granted any PPSR registrations to any suppliers or other parties? Ensure that you provide copies of any financing agreement to your solicitor.	<input type="checkbox"/>	<input type="checkbox"/>

TIP Many suppliers who offer credit terms will register an interest on you, your business and/or your business assets on the PPSR. Often you will be unaware they exist. Make sure your solicitor undertakes a search of these interests before you sign the contract as it can take some time to obtain releases.

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CONTRACT SIGNING

	YES	NO
Have you reviewed the contract thoroughly with your solicitor and been provided advice on the terms?	<input type="checkbox"/>	<input type="checkbox"/>
Is the purchase price listed in the contract the purchase price as agreed to between the purchaser and yourself?	<input type="checkbox"/>	<input type="checkbox"/>
Is the settlement date listed in the contract the same as what was agreed to between the purchaser and yourself? Is it a realistic date, having regard to the tasks that need to be completed before settlement (licence transfers, landlord consents etc).	<input type="checkbox"/>	<input type="checkbox"/>
Is there an assistance period specified within the contract where you will help the purchaser learn to operate the business and introduce them to key customers and suppliers?	<input type="checkbox"/>	<input type="checkbox"/>
If you are selling stock with the business, is this in addition to the purchase price or included within the purchase price?	<input type="checkbox"/>	<input type="checkbox"/>

TIP In the event that you are selling stock on top of the purchase price, bear in mind that the purchaser is not obliged to purchase stock which is out of date, defective or damaged. You may be asked to nominate a maximum stock value to assist the purchaser with their budgeting. Any stock in excess of this maximum will not be part of the sale and you will have to dispose of it. If the amount of stock is extensive, you can ask for a stocktaker to do a stocktake, otherwise it can be done between you and the purchaser.

Is the business subject to a franchise agreement and if so, are there any provisions in the franchise agreement which deal with sale processes? Ensure that you provide copies of the franchise agreement to your solicitor.	<input type="checkbox"/>	<input type="checkbox"/>
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TIP Similar to leases, franchisors will usually need to approve of any new franchisees. Each franchise agreement will specify different processes for consent. You may be obliged to pay a transfer fee and the franchisor's legal costs for the transfer. It is important that your solicitor reviews this document carefully, ensuring that the franchise agreement is complied with.

Is the purchaser taking on all or some of your employees?	<input type="checkbox"/>	<input type="checkbox"/>
Is there anything that the contract should be conditional upon?	<input type="checkbox"/>	<input type="checkbox"/>
Will you agree to a restraint of trade?	<input type="checkbox"/>	<input type="checkbox"/>

TIP It is important to note that a restraint of trade will stop you from opening a similar business within a specified area for a specified period of time. Ensure that you have discussed your future employment with your solicitor so that the contract is drafted accordingly.

ONCE CONTRACTS ARE SIGNED

Has the purchaser paid the deposit to either the agent or your solicitor's trust account? The deposit should not be paid directly to you.	<input type="checkbox"/>	<input type="checkbox"/>
Speak with any employees who are transferring or non-transferring and provide any notices required by the contract or the Fair Work Act. Make sure you are aware of all of the relevant timelines.	<input type="checkbox"/>	<input type="checkbox"/>

TIP Speak with your solicitor about your obligations to your employees as part of the sale of business including notice requirements and calculation of entitlements.

Has the purchaser lodged all transfer applications in anticipation of settlement?	<input type="checkbox"/>	<input type="checkbox"/>
Have you provided signed documents to your financier, if required, so as to assist with preparing for settlement?	<input type="checkbox"/>	<input type="checkbox"/>
Have you provided signed documents to your accountant? They may require these for future reference.	<input type="checkbox"/>	<input type="checkbox"/>

SETTLEMENT PREPARATION

At least 5 days prior to settlement, provide your solicitor with details of all business outgoings so they can be adjusted on a pro rata basis.	<input type="checkbox"/>	<input type="checkbox"/>
Have you arranged for stocktake to take place?	<input type="checkbox"/>	<input type="checkbox"/>
Has the purchaser received approval for all of the transfer applications?	<input type="checkbox"/>	<input type="checkbox"/>
Have all of the special conditions contain within the contract been met?	<input type="checkbox"/>	<input type="checkbox"/>
Have you provided your solicitor with bank account details for your funds to be put into?	<input type="checkbox"/>	<input type="checkbox"/>