

Financing Your Business Growth – Why It Pays To Have An Attorney On Your Side

Why Finance Your Business?

Business owners know that it takes money to make money. One of the first questions a would-be entrepreneur must ask is “how will I fund my business before my business is making enough money to fund itself?” One common solution is to inject capital from personal sources (savings, home equity, etc.), while another is to turn to outside investors. Some businesses are able to obtain funds from the Small Business Administration, through the 7A or other government sponsored programs.

Injecting start-up capital is only the beginning, however. Growing businesses frequently discover that their growth is hampered by lack of cash. Perhaps they wish to purchase a new piece of equipment, invest in a building, or grow receivables. Perhaps they want to take advantage of unique opportunities such as buying out a competitor or purchasing commodities during a market dip. In these situations, obtaining financing for your business can be critical in achieving your goals.

Types of Business Financing

Three types of financing that businesses employ are trade invoices, equity finance, and debt finance.

Trade Invoicing is easily the most common and readily available. It occurs whenever your business is given an invoice for goods or services received, rather than having to pay cash on delivery. Terms of trade invoices will generally be determined by industry norms, course of dealing between the parties, and the overall repayment history of the purchasing party.

Equity Finance is an injection of capital into the business. The current owner(s) may add additional capital, or they may seek to add new owners who will bring capital with them.

Debt Finance involves borrowing money from a bank or other source for use in the business. Unlike an equity investor, the debt finance lender does not want or expect to take an ownership interest in the business. Instead, the debt finance lender seeks full repayment of principle lent along with an agreed upon return on the investment (normally in the form of periodic interest payments).

How Can Your Attorney Help?

A **business attorney** can be an invaluable ally in all three types of finance.

Trade invoice transactions occur every day with no need for legal assistance, however they are all contractual relationships between the parties. With

larger, more complex, trade relationships such transactions involving overseas purchases or sales, large volumes, custom produced goods, etc. an attorney can help ensure that your expectations are met by helping to structure the transaction and drafting the contract so as to reduce the risks of loss and to mitigate losses by anticipating them and providing for effective remedies.

Equity finance transactions are frequently complex because they can involve a change in the ownership structure of the business. Here, your business attorney can help draft or amend entity documents that clearly define the risk, reward and responsibility allocations for each owner. Your business attorney can also ensure SEC compliance where applicable.

Debt finance typically requires the borrower to provide a security interest in collateral, to provide a promise to repay the loan according to agreed upon terms, and often to provide personal guarantees, lease subordinations, and other contracts designed to protect the lender’s ability to obtain repayment.

Loan agreements contain default conditions, recourse options, and frequently also contain performance covenants and other restrictions. Because loan agreements are drafted by and for the benefit of lenders, borrowers would be advised to read all loan documents thoroughly to ensure that they understand and agree to abide by all terms.

Your business attorney can help explain the arcane clauses frequently used in loan agreements. Your business attorney can caution you to help your business avoid accidentally tripping a misunderstood default condition. Finally, your business attorney can sometimes help you negotiate more favorable terms or less onerous covenants.

In short, financing is an appropriate, common and valuable tool in helping your business grow. Your business attorney, along with your CPA and commercial banker, is a critical member of your professional team and can not only you save money by helping to avoid costly errors, but can help you make money by working with you to grow your business with confidence.

**Call us today to schedule your
Finance Strategy Session:**

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