Due Diligence Checklist: Purchasing a Business

Buying an existing business requires careful consideration. This checklist highlights common areas that must be considered when buying a business. It should be noted that a business can be purchased either by buying the business's assets or, alternatively, by buying the shares in a company (or units in a trust, etc).

It is important to conduct a thorough due diligence review before deciding to buy. The review should find out as much information about the business as possible, which you can then discuss with your adviser. You should also consider how embarking on a business venture would fit with your personal circumstances, expectations and skills set.

Item		Yes	No
	Where the business is conducted through a company		
1	Have you done a company search to verify the vendor?	☐	☐
2	Are all ASIC compliance requirements up to date?	☐	☐
3	Does the company have any overseas operations?	☐	☐
	Financial health		
4	Have you obtained the last four years' financial statements for the business?	☐	☐
	TIP: The financial statements should contain this breakdown: liabilities (including contingent liabilities), inventory, and accounts receivable and payable.		
5	Have you obtained information on the business's capital structure and, where possible, obtained a current list of vested interests (such as shares, options, warrants, etc) and outstanding debt instruments?	☐	☐
6	Have you obtained an up-to-date copy of the business's credit report, if available?	☐	☐
7	Has a comparison between the business's gross profits and the industry trends been done?	☐	☐
8	Does the business have a loyal customer base? For example, subscriptions, loyalty programs, etc.	☐	☐
9	Have you reviewed the ageing of overdue debts?	☐	☐
10	Have you considered the financial projections and major growth drivers of the business for the next four years?	☐	☐
	Taxation considerations		
11	Have you familiarised yourself with the tax obligations of the entity?	☐	☐
	ALERT: Where a business is sold through an asset sale, the purchaser does not inherit any tax liabilities of the business. However, where a business is sold through a sale of units or shares, the purchaser inherits the tax liabilities of the business.		
12	Have you obtained confirmation that all tax obligations (eg income tax, GST, PAYG withholding, stamp duty and payroll tax) are up to date and paid?	☐	☐
	ALERT: You must consider the duties of a director under the tax law. New directors need to take action within 30 days of their appointment if the company has outstanding PAYG withholding or superannuation guarantee amounts, or they face the possibility of becoming personally liable under the director penalty regime.		
13	Have you obtained the last four years' tax returns and assessments? This includes supporting schedules and workpapers of the business, such as capital allowance schedules, business activity statements, fringe benefits tax returns, etc.	☐	☐
14	Have you reviewed all correspondence with the ATO and determined whether any private tax rulings, tax elections, amended notices of assessment, etc may apply the business?	☐	☐

Item		Yes	No
15	Is the business being audited by the ATO, or has it been audited in the last four years? If so, confirm the outcome.	☐	☐
16	Have you considered the stamp duty implications for the purchase of the business?	☐	☐
	ALERT: There could be additional duty if purchasing shares or units in a landholding company or trust.		
17	Have you considered whether the business purchase will be a supply of a going concern, ie GST-free? If so, a written agreement will need to be completed before settlement date.	☐	☐
	ALERT: Where a business is sold through the sale of units or shares, it will not qualify as a supply of a going concern – the purchase of the units or shares will be an input taxed financial supply for GST purposes.		
	If you are buying a business through an asset sale		
18	Have you obtained a fixed asset register detailing all the assets being sold?	☐	☐
	TIP: The register should detail the following information about each asset: • the original purchase price; • the purchase date; • the depreciation method used; • the depreciation rate used; • the effective life of the asset; and • the written-down value.		
19	Have you checked the ownership and condition of the assets being sold? Are copies of instruction manuals available?	☐	☐
20	Where the assets are leased by the business, have you obtained copies of the leases?	☐	☐
	TIP: If you are taking over the existing leases, you should consider whether the leasing terms are reasonable.		
21	Are the assets adequately insured until settlement of the purchase?	☐	☐
22	Has the purchase price been apportioned across the assets being purchased?	☐	☐
	If you are buying a business through a sale of shares or units		
23	Have you obtained a listing of all current shareholders or unit holders?	☐	☐
	Employee obligations		
24	Have you obtained a list of the employees, including their salaries and other entitlements?	☐	☐
25	Do any employees have close contacts with customers? If they were to leave, would the business be at risk of losing customers?	☐	☐
26	Are there any key staff who would be imperative to the smooth continued running of the business? Considerations should include special skill sets or knowledge.	☐	☐
27	Are you aware of all employment conditions, including key workplace agreements, any incentive bonus plans, staff rotation policies, disciplinary procedures, etc?	☐	☐
28	Have all outstanding employee entitlements, such as superannuation guarantee and annual leave, been accounted for?	☐	☐
29	Are the WorkCover premiums up to date?	☐	☐
	ALERT: Where a business is sold through an asset sale, the purchaser can choose not to take on the employees of the vendor. However, where a business is sold through the sale of units or shares, there will be a continuity of employment and the buyer is responsible for any employee liabilities accrued.		

Item		Yes	No
	Trading stock		
30	Does the trading stock include any obsolete stock?	☐	☐
31	Has the trading stock been valued at market value?	☐	☐
	TIP: Where the purchase of the business assets includes trading stock, the trading stock must be valued at market value on the day it is acquired, which is normally the date of the purchase contract.		
	Business premises		
32	Have you sighted copies of all real estate lease agreements, deeds, mortgages and any documents relevant to the premises?	☐	☐
33	If the same business premises are to continue, has the vendor facilitated a lease assignment and have you signed all documents?	☐	☐
34	If there are improvements to the business premises, have you obtained a register detailing the improvements?	☐	☐
	TIP: The register should detail the following information: the cost of the improvements and the date of construction or acquisition.		
	Other considerations		
35	Do you know why the vendor is selling?	☐	☐
36	Has the vendor attempted to sell the business before? If so, what happened?	☐	☐
37	Is there a documented business plan? Does it match your expectations?	☐	☐
38	How complex is the business? Does it involve many disparate subsidiaries or multiple products and services?	☐	☐
39	Are the business operations subject to any government regulations? If so, are all relevant government licenses, permits or consents up to date?	☐	☐
40	Do you know who the main competitors are? Consider whether there are new competitors entering the market.	☐	☐
41	Does the business have any pending or ongoing lawsuits, or any recently finalised litigation cases?	☐	☐
42	Have you considered obtaining an indemnity from the seller to cover activities before the sale date?	☐	☐
43	Have you searched the local council and other government agency records to ensure there are no plans or council orders that could disrupt the business or lead to a potential drop in sales?	☐	☐
44	If a restrictive covenant, an earn-out clause or a claw-back clause is included in the purchase contract, have you ascertained the legal and tax implications?	☐	☐
45	Have you identified the key customer and supplier contracts and the likely impact a change of ownership might have on these agreements?	☐	☐
46	Have you examined current production, distribution, sales and marketing strategies (including websites and social media) of the business and the likely impact of a change of ownership?	☐	☐
47	If you are acquiring the business with other people, do you have the necessary agreements in place?	☐	☐
48	Have you considered potential future issues that could negatively impact the viability of the business (eg changing technology, trends, etc)?	☐	☐
49	Are there any intellectual property matters to consider? For example, trademarks, licences, patents, etc.	☐	☐