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Important Dates in a Commercial Transaction
by Dave Edwards

When one is purchasing or selling a business the lawyers and accountants often refer to a number of important dates -- the due diligence date, the conditional date, the effective date, and the closing date. Each has a different significance to the transaction.

The **due diligence date** marks the end of the period during which the purchaser is entitled to generally examine the assets, contracts and financial information of the business in order to confirm whether it wishes to move forward with the transaction.

The **conditional date** may be the same day as the due diligence date, but often refers to the ending of all of the conditions in the transaction. The transaction may be conditional upon a number of matters being satisfied to either or both of the vendor and purchaser's satisfaction. If the condition is not satisfied, then the transaction is usually at an end. There are many types of conditions such as the purchaser obtaining satisfactory financing from the lending institution or the purchaser undertaking an environmental audit of the property. The conditions can be as broad or specific as is appropriate in the particular transaction. If for example, a specific contract is critical to the ongoing success of the business -- eg. a contract to supply McDonalds -- then the transaction might be conditional upon the purchaser satisfying himself that the contract is valid and assignable to him.

The **effective date** and the closing date are often the same day. However, it is not unusual for the parties to agree that for financial purposes there will be a cut-off date or an effective date. All expenses and income received by the business up to and including the effective date would be for the benefit of the vendor. Thereafter, the income and expenses of the business would accrue to the benefit of the purchaser. When the effective date occurs prior to the closing date, there are normally special arrangements made with respect to the management of the business during the interim period. The purchaser usually will have a representative at the business and the vendor will not be permitted to make any decisions out of the ordinary course of business without the consent of the purchaser.

The **closing date** is the day when the legal title to the business is transferred to the purchaser. It is on that day that the lawyers for the vendor and purchaser make arrangements for the exchange of all of the necessary documentation to transfer ownership of the business. It is also the day when the purchaser pays the vendor the purchase price of the business.

Each date has a special significance to the purchase and sale of a business. It is important to understand them if you are considering buying or selling a business.

The foregoing is provided to you for information purposes only. We caution you to obtain legal advice specific to your situation in all circumstances.

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