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# More RIA Buyers Are Offering Equity. Here's What Sellers Should Know

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Mark T. Wilhelm

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Mark Wilhelm, a partner with Troutman Pepper, was quoted in the August 1, 2024 *Financial Planning* article, "More RIA Buyers Are Offering Equity. Here's What Sellers Should Know."

Equity swaps comprise a growing share of the purchase price mix in wealth management transactions, alongside that popular and eye-popping asset — cash — and contingency payments. Amid the continuing industry consolidation, several hundreds of RIAs and other wealth management firms change hands each year. The offers of equity in the buying firm shock some sellers, who may be caught off guard by the notion of receiving 10% to 20% of the deal price in the form of stock in the acquiring company, according to Mark Wilhelm, a partner at the Troutman Pepper Hamilton Sanders law firm who advises companies in M&A deals.

The incoming equity poses tax implications for many advisory practice sellers, as well as a profound shift from running their own small business to having to understand various classes of equity and the voting rights associated with them, Wilhelm noted in an interview.

"Although some buyers view their shares as "sacred" and don't provide any equity, others see offering equity as a requirement since it's a method of "making it cheaper to do the deal" in a time of high interest rates and a means to keep the seller literally "invested in the business" for the future," he said. If they take equity in the buying firm, the sellers often morph from a limited liability corporation established by a three- to five-page document into a private equity-backed agreement running 120 pages or more, according to Wilhelm.

"They've been used to for years and years and years being the sole owners" at firms where "whatever they say goes," he said. "A lot of that comes as a surprise to people selling their business who have typically experienced relatively simple structures."

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In terms of taxes, that lower sheer amount of incoming cash could slash part of the hit from Uncle Sam. However, the sellers may get the equity from the buyer in the form of "a taxable rollover" that provides cash that they use to buy the shares, Wilhelm noted. "Sellers tend to choose that type of transaction when Congress or a presidential administration is pushing for new policies that could bring higher taxes in future years than under the current rules," he said.

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“You don’t pay taxes on it until some event down the road,” Wilhelm said. “The question is, how do you reflect that in your legal documents in order to get to that desired outcome under the current tax laws?”

“For prospective sellers, the tax- and business-related impacts of equity swaps illustrate why it’s important to have an auction process that gives them an opportunity to be “talking to a bunch of different buyers” about the deal structure,” he added. “That means, if they hope to defer some of the taxes, asking potential buyers “about whether that’s something that’s available is a good thing,” Wilhelm said. By the same token, the potential sellers can examine their own RIA.

“What I would suggest is that they talk to an accountant beforehand to make sure that whatever entity structure they have right now will accommodate that,” he said.

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