LIQUIDITY
EVENT
LESSONS

WITH LATTICE WEALTH MANAGEMENT

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[00:00:32.12] - Mike Ross

Welcome to Liquidity event lessons. I'm Mike Ross.

[00:00:37.14] - Ryan Ross

I'm Ryan Ross.

[00:00:39.12] - Mike Ross

Liquidity event lessons are all about what you should be thinking about in doing both pre- and post-sale of a business. Certainly, for the business, but really for yourself.

[00:00:53.12] - Ryan Ross

In this episode, we've spoken with Andrea Starrett, an estate and trust attorney. We talk about when is the right time to think about estates and trusts when considering an exit in your business. We talk about how much does it matter which state you are in during an exit or after or before one. We talk about what happens when you're in a family business. And maybe if you decide to move to, I don't know, Nevada before liquidity event, what do you need to do when considering the franchise? We talk about what do you do when someone's accountant or business broker, etcetera, is obviously in over their head? And finally, when the deal comes in and it's done, what is her triage? How does she handle the situation to make it best for the clients? Enjoy this conversation with Andrea Starrett.

[00:01:40.02] - Ryan Ross

Well, Andrea Sterrett, thank you for coming onto the show. We appreciate your time. And we want to talk about liquidity event questions and lessons. Liquidity event lessons with that in mind, can you just give us some background about who you are and what you do for people that may not have heard about you?

[00:01:55.21] - Andrea Starrett

Yes. So, my name is Andrea Starrett. I am the founder and owner of Starrett Law. We are an estate planning law firm, and we collaborate with clients who are typically in the tech center sector or business owners. And most of them, or many of them, are acquiring or increasing their wealth with, you know, liquidity events, exits and so forth. And so, we do all sorts of tax planning that's either focused on the federal estate tax or on income tax and to some extent, California property tax planning.

[00:02:33.20] - Ryan Ross

Okay. And so, one of the things we want to jump about and talk about right off the bat is that timing, because when you have an estate plan or a trust, you might be considering an exit. So, is there a right time to talk about your estate or your trust when you have a business, and you are thinking about selling it? And there is there a case also for waiting until after you sell your business, and you take an exit?

[00:03:02.07] - Andrea Starrett

So, I think it's important at the outset to talk about estate planning, the different types of people might be thinking of when they hear this, right? So I think about estate planning as having two separate buckets, one being purely the contingency planning, getting your will done, getting your basic living trust done in California people are doing living trusts, the basic documents that everybody needs that says where your stuff goes when you die versus irrevocable trust planning, tax planning, which is more the type of planning that I would consider. Advanced planning, tax planning. This is the type of planning that you need to think about when you're thinking about an exit. The first bucket, you always need that done, and it doesn't matter timing, get that done as soon as you can. If you have any assets at all, I think for the purposes of today, get that done. But for the second category of trust planning and things like that, the sooner the better is really the answer. And that doesn't always get done because sometimes clients don't know that they need to be planning, doing tax planning before the exit, or sometimes they are so embroiled in the planning and the negotiations and all that stuff that it's just not a priority.

[00:04:24.20] - Andrea Starrett

Right. They're circulating term sheets; they're doing all this kind of stuff that's not there on their mind. But there are some planning techniques that are timing dependent and certain doors will be closed if you wait too long. Others the door hasn't closed. It has a certain point, but the earlier the better from a tax savings evaluation perspective, and also just from a practicality perspective as well, which is we get clients calling all the time, you know, two weeks before, you know, a secondary sale or two weeks before something's happening. And it's hard even if we can do the work, it's really stressful. You're not doing your best thinking and planning if you're under the gun. So, it's really great if you can get out in front of it as early as you can, ideally six months in advance.

[00:05:19.04] - Ryan Ross

Okay.

[00:05:20.02] - Mike Ross

So, in addition to the win, Andrea, how about the whereas you think about this? You know, I know there are a handful of states where, because there's no state tax, there are positives to getting residency. And does it make a difference in terms of a liquidity event which states you are a resident of?

[00:05:46.14] - Andrea Starrett

So, there's a couple of ways this comes up in the planning that I do, right. One is just where you are domiciled as a taxpayer. Right. My clients are California taxpayers. Very disadvantageous, a tax perspective. And so, there's not a whole lot you can do to stop that. There are people who expatriate out of California to Nevada, Florida, Texas for income tax purposes. And that's kind of a whole, that's really moving your whole life. And we can talk more about that. But, and then from my perspective, it comes down to, again, these trusts planning. So, for example, I have a lot of clients who want to create irrevocable trusts for the purposes of increasing their exemption for qualified small business stock sales QSBS planning, and they have a certain amount, you know, $10 million of exemption, and they want to stack or increase their exemption by creating irrevocable trust for family members or friends. They'll often create those trusts in Nevada so that they. Because there's no QSBs exemption for state law purposes, it's just a federal law. So, they say, well, I'm going to use my QSBs exemption, I'm going to create more exemption, and then let's cite us or place this trust so that the trust has a domicile for tax purposes in Nevada, and that way there's zero tax on this transaction.

[00:07:19.00] - Andrea Starrett

So, there's, there's rules, and there's. There's complications that arise when you do that. But it's very common for people to establish trusts in other jurisdictions for tax purposes and all. Yeah, well, mainly for tax purposes.

[00:07:33.09] - Ryan Ross

I'm wondering about it. So, you mentioned Nevada is a state to do that in, right? Are there any others? Well, I feel like there's. Other than Vegas, which has a lot going on.

[00:07:44.18] - Ryan Ross

Do you need to go back to?

[00:07:45.21] - Ryan Ross

That state, like, once a year or whatever state you're going in, you're domiciling your trust in, or are there any other, like, odd requirements?

[00:07:54.17] - Andrea Starrett

So, when your trust is gone. If you're gonna have a trust that's. That has a situs. We call it a situs, or that's in another jurisdiction, the requirement is that the trustee of the trust be in that jurisdiction. That's what creates the trust domicile is where does the trustee. The trustee, I think, you know, is the manager of the trust, the CEO, the president of the trust document. So, they have to be physically located in that state. And so that can be done. Either. There are trust companies. Right. That. So, this is a big industry in South Dakota, there's a ton of trust companies, probably Delaware. Nevada has a ton. Alaska, where there's, you know, it's just sort of like on an international level, you might think of with the Cook Islands or the Caymans or something. Right. So, there's all these trust companies. Or if you have a friend or, you know, somebody who can do the work in another state, you can do that, but they have to be there. The client themselves never has to go there. And it's important to note that at least with California, how California taxes trust plays into it.

[00:08:55.12] - Andrea Starrett

Right. So, I can't speak for if you're, if you're a Massachusetts resident and you have a trust in Nevada, I don't know what Massachusetts does with that. But for California, of course, California is still going to tax any income. That's California source income. Right. So, if you have a business in California, California is still going to tax that. Doesn't matter where the trust is. That's number one. And then you know, who the beneficiaries are may cause taxation as well. So, if you have California beneficiaries, depending on how the trust is drafted and depending on how the distributions come out, there's probably going to be some California tax as well. So, it's pretty complicated.

[00:09:36.04] - Ryan Ross

Yeah. South Dakota surprises me. Wonder how they decided on that.

[00:09:43.04] - Andrea Starrett

I mean, it's not that surprising if you think about, if you again, zoom it out to sort of like the Cayman Islands or the Cook Islands. Right. You have this kind of international tax. Right. Why did they do that? Is it because they really hate taxes? No, they don't have other industries. Right. I think the Cayman Islands is the biggest industry.

[00:10:00.05] - Andrea Starrett

Rope at one point, maybe turtle meat. Right. And so, they need, they need something to bring in some dollars so they can attract, you know, Switzerland, probably the same thing. So, South Dakota, I don't know what their big industries are, but, you know, I imagine that's, you know, it's not a very populous state, so they make, you know, same, I'm sure Delaware is the same thing. You make, you know, great corporate tax laws and then everybody wants to incorporate there.

[00:10:21.20] - Ryan Ross

So, Panama, too, I think.

[00:10:24.09] - Andrea Starrett

What's that? What's that?

[00:10:25.13] - Ryan Ross

Panama, too?

[00:10:27.10] - Andrea Starrett

Yeah, exactly.

[00:10:28.22] - Ryan Ross

Interesting. Well, moving on to it in a different direction a lot of the times. Well, maybe, maybe not a lot, but often you have a business owner, and they have family, and they are in the family business. And is there a specific consideration that a business owner would need to think about when they are exiting and maybe their kids are staying in the business and what do they need to think about from a trust perspective?

[00:10:55.23] - Andrea Starrett

Yeah. So, you know, if their kids are really, I mean, there's probably the things you want to just pay attention to is family dynamics. Right? Who owns what, who has controls? Are there, you know, usually when I think of a, you know, a lot of times the planning, the exit planning, or the liquidity events that I'm talking about, they're usually individual founders who probably had some vc investment or things like that. And so, it's on a grander corporate scale. And there's not often other family members. Maybe there's a husband and wife or a brother situation, but those things are often at such a really corporate governance level that the family business dynamics aren't coming into play as much. I don't think the smaller family businesses that are selling to another business, a construction and development business, like think of San Jose or something, the family issues are really big. And so, you know, you have to look at, well, how are the dynamics being left? How if I leave, what happened to the voting structure? Or did we give some things to kids, and we just were signing, you know, were we doing things kind of in a basic way?

[00:12:08.22] - Andrea Starrett

And now we have a bunch of 21-year-olds who now are going to have millions and billions or something like that, make sure that their shares are now, instead of holding these nonvoting interests like this really worthless sort of private company interest, now they might actually have some money in their pocket.

What can we do? And so again, looking at trusts and is there any way we can filter their interest into a trust before we sell? And how does that, how to work. How to work that how to have that conversation with the young adulthood.

[00:12:45.19] - Ryan Ross

So it sounds like it depends on the size of the company because larger companies are going to have corporate governance issues, whereas smaller companies, they may not have as much of a complication there, but the family dynamics play a bigger.

[00:12:57.05] - Andrea Starrett

Role, I think so, yeah.

[00:13:00.08] - Mike Ross

So, I'm going to go back just briefly, Andrea, to the issue. And, you know, this comes up in my conversations. I got to believe it comes up in yours, too. Instead of trying to find a Nevada trustee, which, as you know, is more complicated than it sounds in many ways because of trying to pull money out of those trusts, a family decides that they're going to move to Nevada or they're going to move to Texas. And, you know, that sounds like it's just such an easy thing. But then there are doctors and there's dentists and there's other business relationships. And what I have heard, I don't know this firsthand. What I've heard is the franchise tax board, the California franchise tax board is very savvy about trying to find ways that people who say they moved from California really didn't. What's been your experience along that line?

[00:13:58.04] - Andrea Starrett

So, I'm not personally involved in advising people to move out of state. That's really not, it's often the CPA who will walk a client through that. Clients ask me about it all the time. And what I always, you know, what I always tell them is, it's fine if you want to do it, but it's got to be a real move. And do you really want to move? So, for example, I had a client the other day. He's done really great tax planning for decades. He's optimized everything he could, but he's got a large position in a biotech company. And he thought, well, why don't I just move to, you know, Nevada? And he's got a beautiful home in Hillsboro and a beautiful family, and he's older. He's done everything right. And I said, well, do you want to move to Nevada? And he goes, well, no. And I said, well, then that's your answer, right? I mean, he doesn't really, you know, I said, you'd have to sever, you'd have to really move, and you'd have to sever all your relationships. Like we said, you know, your doctors, your dentist, your hairdresser. I heard a story, I don't know if it's true, about a woman, a family that had moved to Florida out of LA and, but the woman was still going back to her hair appointment every month.

[00:15:12.16] - Andrea Starrett

And the FTB used that probably as a factor. I doubt that was the deciding factor, but as a factor to show that you haven't really moved. And the thing to remember if you're a California taxpayer is people who talk about the IR's. Oh my God, the IRS. The IRS is really underfunded, and they don't have the resources to really pursue things. But the FTB is very aggressive. They're well-funded. And if you move out of the state sometime about a year in advance of an exit or some sort of liquidity event, you should expect an audit. But from the FDB, you should expect them to go through your credit card statements and see where you're pulling money from your atm. I don't know if they're looking at cell phone records, but you know, they're going to be very thorough. They want their money.

[00:16:02.11] - Ryan Ross

FTB is. You said franchise tax board, is that right?

[00:16:05.08] - Andrea Starrett

That's right. Okay, thank you. Yep.

[00:16:06.14] - Ryan Ross

Okay. So, yeah. What is that?

[00:16:09.19] - Andrea Starrett

It's just the state taxation authority.

[00:16:11.20] - Andrea Starrett

Right.

[00:16:12.00] - Andrea Starrett

So, in every state there's, well, there's, you know, there's the federal, you know, there's the IR's, which is the United States federal income tax authority. And then every state has their own state level. So, in California it's called the franchise tax board. I don't know why. And they, they gather all the state level taxes and govern all of that.

[00:16:29.23] - Ryan Ross

Are they called the franchise tax board regardless of state, or is that just from California?

[00:16:33.18] - Andrea Starrett

Just California? I mean, who knows? And how in Ohio it might be the board of taxation, you know, it will be different in every state.

[00:16:40.21] - Ryan Ross

Yeah. You know, I sometimes hear stories about people saying, oh, I'm going to move to Puerto Rico, and that's another big one right now. Why is that so big?

[00:16:50.23] - Andrea Starrett

There's a treaty or. I don't know. I don't think it's called a treaty, but there's a law that's in effect for a limited period of time that is allowing us taxpayers to move to Puerto Rico where there's no income tax. And for some people it's extremely advantageous. I have a lot of clients and advisors who, in themselves, are very wealthy and they, it's become a whole, it's become a whole sort of different tax haven. So, yeah, so that's a, that's a big deal. And the people who are doing that typically are moving, period. They're not saying, I'll move to an inclined village for a couple of years, and then you know, wait it out and come back. They're usually really moving because they're, they want to be out of the us taxation system.

[00:17:39.06] - Ryan Ross

Yeah. So you're saying like, if you are planning on, if somebody, because of a liquidity event, if they say, I'm going to move to a different state so I can reduce my tax burden, it's not like a, oh, I'll do that just for fun because it's a great game. No, it's like you're, you're committing to moving everything over there.

[00:17:59.20] - Andrea Starrett

Correct.

[00:18:00.18] - Ryan Ross

And sometimes people go out of the country. Right. And that's a whole other thing because you might need to give up your citizenship, which is really, really kind of a pain in the ass if you have to get a new passport and you don't have the same rights coming.

[00:18:12.20] - Andrea Starrett

Right.

[00:18:13.07] - Ryan Ross

And you can't run for president.

[00:18:14.13] - Andrea Starrett

Right. Expatriation is actual expatriation is incredibly involved and very severe. And I think when Facebook went public, there were some high-level people there who actually expatriated and you have to pay an exit tax, you know, so it's not to be done lightly. So, I think that's why Puerto Rico is kind of like this. It's almost like going to Nevada, but it's not like moving to, you know, Costa Rica.

[00:18:39.09] - Andrea Starrett

Right.

[00:18:39.16] - Andrea Starrett

It's kind of halfway between.

[00:18:42.06] - Ryan Ross

Yeah. That's so interesting. People get over their heads. Oh, speaking about getting over your heads, here's a question. When you're, when you're, what do you do when you realize that somebody's their accountant or their business broker, you're working with them on a transaction and you realize, like, this person is obviously in over their head. Right. They haven't specialized in this thing, but they've been with the person for so long that they didn't want to, like, graduate up to a more specialized professional? How do you, how do you deal with that situation?

[00:19:17.20] - Andrea Starrett

It depends on who this person is and how, how they, how they are. Right. It happens often. And so often what I'll do is I will reach out to that person offline. Right. Without the client knowing and, and, you know, do whatever I can to coach them through, make sure they know the pertinent terms. See if, see if there's a way to sort of make up for their shortcomings. If, you know, if they're just a CPA who doesn't really need to know how to do the trust I'm doing, I want to make sure he knows the right terminology. He understands what I'm saying. Without the client kind of getting clued in that they're clueless. And I want to get them up to speed because we've all done something for the first time, you know, and if they're a long-term advisor, the client is comfortable with them. And if they're not hurting the client by their lack of knowledge, then it's my best interest, it's in everybody's best interest for them to stay involved, because they're usually the person the client trusts the most. And so, my job is to say, hey, how can I get all up and running and make sure he understands and feels comfortable with what I'm doing?

[00:20:27.09] - Andrea Starrett

That's my best bet. If there's someone who's hurting the client or his difficulty or stubborn or is trying to tank or sabotage things because they aren't with it, then that's really difficult. That's, that's. I might have to have a frank conversation with the client. Ideally, it would be a situation where Mike and I are working together, and Mike's been working with them for a long time, and he's the long-term advisor. But then there's a third-party advisor who's involved, who's messing it up. I probably go to Mike, I probably find out who's their top advisor, who's their key contact, and go to that person first and say, listen, you don't, you might not know this, but this guy is messing stuff up, or this woman's messing stuff up, and then let Mike handle it. But if it is Mike, if it's somebody at Mike's level with the client, that's really difficult. But if they're really harming, if I see harm coming to the client, it's my duty to, you know, first talk to them and make sure, hey, you know, you know, this is against the law, or you know that this is happening, right?

[00:21:34.15] - Andrea Starrett

And if they can't get it together, I have to tell the client, hey.

[00:21:39.14] - Ryan Ross

You have to do it. What's in the best interest of the client at the end of the day?

[00:21:42.10] - Andrea Starrett

That's right. But, but it's really great if you. If you can have, you know, even if somebody's a little resistant because their pride is hurt or whatever. I mean, it happened recently with an advisor who was kind of getting, you know, in over his head, but didn't realize it. And it was a really good opportunity for me to handle it nicely and for me to kind of get him on my side. And now I imagine we'll be working on things together more now because I took the time to manage that relationship. And now they're an ally who hopefully will look at me as a resource down the line, even if they're doing deals with other people. So, it's always an opportunity.

[00:22:20.22] - Mike Ross

Yeah, I agree with that. Okay, so final question for me, at least. Someone, someone gets your name, they come in and, you know, you and I have talked about this in the past. They come in and the transaction is already complete. They didn't have time. They didn't have interest. They were concentrating on it. What is the triage, Andrea? What do you have to do urgently, and what can you kind of set aside for later? How do you do something post deal?

[00:22:55.11] - Andrea Starrett

Well, first thing I do is look at whoever their advisors were and shame them in my brain. Like, just, come on, man, how did you miss this? But I say that, keep it to myself, and I just hold on to it. So, the next thing is, there's not a lot. I mean, there's the best thing. Usually, these are income tax issues, right? So, the first, I would say two things, right. One is getting the CPA involved, right. And say, okay, what can we do from an income tax perspective right before the next filing to at least manage that? And oftentimes, they'll have had a big income tax event that year. And so maybe they are creating a donor advised fund or making a large charitable contribution. It'll be too late to have done a charitable remainder trust, but it doesn't mean there isn't other ways to mitigate the income tax. And then maybe look at you, the wealth advisor, and say, mike, you'd never miss this. I know, but with your clients. But look at the wealth advisor say, is there any loss harvesting we can do? Like, is there anything we can do to mitigate the income tax?

[00:24:00.11] - Andrea Starrett

Right. That would be number one. And that's usually their most pressing issue. And then if they're really, if they really had a big position where they came out, and they have quite a lot where an estate tax issue is still there, then what I'm gonna say is, let's create a way now, over the long term, to kind of. We missed a big planning opportunity, but that's okay. There's no such thing as just one bite of the apple. Let's try to do sort of a slow and steady plan year over year to try to take some air out of that balloon from an estate tax perspective. So maybe set up some irrevocable trust and use different types of gifting, maybe some life insurance. And let's commit to meeting them annually to kind of reevaluate and do things slow and steady, and that will sort of be the medicine of, like, seed. You missed out. If you had had a good long-term advising relationship before this, you wouldn't have missed this, right? Because your wealth advisor, who's usually the quarterback, would have found out about this a long time ago and would have said you needed to go see Andrea or whoever.

[00:25:10.07] - Andrea Starrett

Now, you know that you need a long-term advising relationship with a wealth advisor who's going to keep you on track. And now the prescription is you have to come see me every year so we can kind of talk about how we do some long-term mitigation. So, there's no, there's no. There's no way to, like, fix what, you know, go back, and fix it, necessarily, other than the income tax filing. But let's now, now grow up. You're an adult now, and now you're somebody who needs to have a team of advisors that you meet with regularly. And I think that's the big takeaway.

[00:25:41.22] - Ryan Ross

Yeah. I have just one final question for you, Andrea, and then we'll let you go. What's the. What would that core team look like? Who is on that team of people who have advisors that people need?

[00:25:53.03] - Andrea Starrett

In my experience, it's almost always the wealth advisor and the CPA are the kind of people who are the top. And, you know, usually, you know, it could be both of them together. Or sometimes it's the wealth advisor who kind of has more touches with the clients. Sometimes that's a CPA, but those are the clients, two most important advisors that they're meeting with quarterly, semiannually, or whatever. Then there's, you know, someone like me, an estate planning attorney, who's doing more tax planning side, not just a basic trust, you know, or will person, life insurance professional is sometimes involved as well. If the wealth advisor isn't also that, and then it really depends on, you know, do they also need an actual tax attorney for other purposes? But often it's the wealth advisor, financial advisor, whatever you want to call it. You know, NCPA, estate planning attorney. Heard the big ones agree.

[00:26:50.11] - Ryan Ross

That cover. That covers all of them. Well, this is. We've dug into a couple different topics, so we appreciate you jumping on the podcast. So, thank you very much for your time, Andrea.

[00:27:01.20] - Andrea Starrett

Thanks so much, guys. It's fun.

[00:27:04.06] - Ryan Ross

All right.

[00:27:05.01] - Mike Ross

Hey, Ryan. Okay. I was going to say you could ask, how can people get ahold of her? But we'll.

[00:27:09.08] - Ryan Ross

Oh, yeah, of course. How do people find out about you, Adria?

[00:27:13.02] - Andrea Starrett

Well, usually I get an introduction from somebody like you guys. Most of my clients come to me. The vast majority of my clients come to me by really great referral sources who I've had a relationship with for years. But anybody interested in having a conversation with me could find my details, my contact details, my email through www.starrettlaw.com or find me on LinkedIn. Andrea Starrett. I don't think it's a common name.

[00:27:46.10] - Ryan Ross

Wonderful. Thank you very much. We'll direct as many people as possible. And there we go.

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