

T H E S C H U M P E T E R C E N T E R

A BUSINESS AND FINANCIAL MANAGEMENT CONSULTING FIRM

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From the Editor & Publisher, Capitalist Quarterly

January 2017



Dear Colleagues:

Welcome to this Premier Edition of *Capitalist Quarterly (CAPQ)*.

CAPQ is an influential communications and education tool published by the Schumpeter Center, providing a forum-of-record for mentoring entrepreneurs, investors and managers who create and develop small businesses, and all those having a stake in these processes. We explore everything relevant to small business creation and development. We boldly take apart the concerns of business stakeholders and find solutions for those concerns.

In this Premier Edition of CAPQ, we introduce you to Schumpeter Consulting and the Schumpeter Enterprise Institute – the two divisions of the Schumpeter Center. We also provide you with checklists and insights into how Schumpeter Consulting shapes its program of work toward resolving challenges for its clients.

Our overall view is to aggressively support free market positions and solutions which expand and enrich the quality of thought and life for those who participate in small business projects and the economy generally. In our research and writing activities, our editorial preference is for evolutionary and thoughtful viewpoints about the economy of the nation – and of families and individuals - within a free market framework.

We want your opinions and any suggestions for future topics of interest that we can research, write about, and send out to our global colleagues.

Wishing you every great and consistent success,

A handwritten signature in black ink, appearing to read "Ann M. Danne". The signature is fluid and cursive, with a large loop at the end.

Capitalist Quarterly - 2017 Q1

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PURPOSE. CAPQ is an educational tool providing a forum-of-record to advance the education and mentorship of entrepreneurs, investors and managers who create and develop small businesses.

EDITORIAL POSITION. CAPQ supports free market positions and solutions which expand and enrich the quality of life for those who participate in small business projects. Editorial preference is for evolutionary and thoughtful viewpoints within a free market framework.

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SCHUMPETER CENTER ESSENTIALS

THE SCHUMPETER CENTER

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MISSION

The Schumpeter Center is an authoritative and respected architect and producer of financial services and products for a worldwide community of business owners, families, and their stakeholders.

OPERATING DIVISIONS

Consonant with its Mission, the Schumpeter Center is capstone to two exceptional operating divisions working together to champion the principles of personal initiative and private enterprise, and to assist families in building and preserving household wealth so derived.

SCHUMPETER ENTERPRISE INSTITUTE

Established in September 1997, Schumpeter Enterprise Institute provides training, advising, and counseling to people who are starting and developing their own businesses.

SCHUMPETER CONSULTING

Established in April 2005, Schumpeter Consulting provides integrated bookkeeping, accounting, tax analysis and preparation, business entity formation and life cycle planning, tax exempt entity creation and compliance, financial management, estate and business succession planning, trust funding, probate and estate settlement services, litigation support, and notarial services.

ORIGINS OF THE COMPANY NAME — OUR SCHUMPETER LEGACY¹



Dr. Joseph A. Schumpeter

Economist, Politician & Educator

B: February 8, 1883 (Třeštl, Moravia)

D: January 8, 1950 (Taconic, Connecticut)

*Entrepreneurial success embodies itself in the ownership of a business.*²

The worldviews of Dr. Joseph Alois Schumpeter inspired the creation of the Schumpeter Enterprise Institute in 1997, and Schumpeter Consulting in 2005. Dr. Schumpeter researched, reasoned, and professed extensively about the connection between economic progress and entrepreneurial activity. He observed that the ultimate cause of social development emanates from sporadic changes brought about by creative individuals who innovate by devising new combinations manifest through new products, new methods of production, new markets, new sources of supply, or new industrial arrangements. He emphasized the entrepreneur as a primary agent in transforming a stationary economy into a dynamic one.

Dr. Schumpeter was born into a family of business owners and managers in the textile industry which extended from the time of the French Revolution through the First World War. He became lecturer at the University of Vienna, professor of economics, University of Czernowitz from 1909 to 1911, then professor of economics, University of Graz. He was then an exchange professor at Columbia University from 1911 to 1914 earning his Ph.D. at Columbia in 1913. He then served as Austrian Minister of Finance from 1919 through 1920. Following an economics professorship at the University of Bonn, he then became a professor of economics at Harvard University from 1932 through 1950.

Among Dr. Schumpeter's most celebrated works is his book, *Theory of Economic Development*, published in 1911 at his age 28. This book inspired the Schumpeter Enterprise Institute starting in 1997, and is still invoked by many present day economists and business executives as one of the most influential arguments connecting entrepreneurship with economic growth.

¹ Mgr. Frantisek Bukvaj (Ed.), *J.A. Schumpeter - Economist, Politician, Social Philosopher and Humanist*, published by the Třeštl' (Czech Republic) Town Council, 2005. Also März, E. (1991). *Joseph A. Schumpeter: Scholar, Teacher and Politician*. New Haven, CT: Yale University Press; and Clemence, R.V. (Ed.). (1989). *On Entrepreneurs, Innovations, Business Cycles, and the Evolution of Capitalism*, New Brunswick, CT: Transaction Publishers.

² Schumpeter, J.A. (1983[1911]). *The Theory of Economic Development*. New Brunswick, CT: Transaction Publishers, 156.

SCHUMPETER ENTERPRISE INSTITUTE - OUR VALUE AND BENEFITS TO CLIENTS

Creating and developing a new business is among the most enlightened acts of positive human interdependence we can perform.³

Established in September 1997, Schumpeter Enterprise Institute provides training, advising, and counseling to people who are starting and developing their own businesses.

- **Our Objective.** The Schumpeter Enterprise Institute helps people create and develop independently owned businesses and advances the highest personal and technical effectiveness in this achievement.
- **For Whom.** Our objective is relevant to individuals and families, entrepreneurs and managers, business owners and associated stakeholders. Our objective extends to entity types such as sole proprietorships, partnerships, limited liability companies, corporations, tax exempt organizations. We welcome past, present, and future entrepreneurs and stakeholders, and those who may simply be exploring or testing their business potential. We honor the cultural diversity, special viewpoints, and unique life experiences of every client-student.
- **Process.** Our training, advising and counseling celebrates the Institutions of Capitalism upon which our curriculum, *Small Business Creation and Development*, is resolutely built. Accordingly, client-students enjoy the best possible opportunity to discover how to transform enterprise ideas into their own practical and workable business projects while continuously improving project outcomes.
- **Result – Consequences for Individuals and Communities.** In successfully achieving our objective, substantive benefits will accrue to client-students individually, and to communities at-large. Individuals and communities may expect:
 - To increase economic literacy and competency as to how to create and develop an independent business enterprise.
 - To learn ways to achieve sustainable self-employment income and job creation for others based on the highest personal responsibility and integrity.
 - To learn ways to maximize personal and household wealth.
 - To improve the quality of thought and life, and the standard of living for all who participate.

³ Donohue, J. M. (2010). *Small Business Creation and Development*. Ruckersville, VA: Schumpeter Enterprise Institute, xxxi.

SCHUMPETER CONSULTING - OUR VALUE AND BENEFITS TO CLIENTS

We continuously align our individual business strengths and technical skills in response to customer requirements.⁴

Established in April 2005, Schumpeter Consulting provides integrated bookkeeping, accounting, tax analysis and preparation, business entity formation and life cycle planning, tax exempt entity creation and compliance, financial management, estate and business succession planning, trust funding, probate and estate settlement services, litigation support, and notarial services.

- ***Our Objective.*** Schumpeter Consulting professionally, cost effectively, and timely delivers financial products and services, together with training, advising and counseling, to small business owners, families, and their stakeholders.
- ***For Whom.*** The benefits of our knowledge, skill, experience and judgment extend to individuals and families, entrepreneurs and managers, business owners and associated stakeholders. Our objective extends to entity types such as sole proprietorships, partnerships, limited liability companies, closely held corporations, tax exempt organizations, trusts, and estates.
- ***Unique Approach – Holistic Insights.*** While we capably address routine business and financial management matters, we are intellectually equipped to reach beyond narrow disciplines and constraints often imposed by many conventional consultants and practitioners. In fact, we are the only business and financial management consulting firm capable of offering individual and small business clients a fully integrated, multi-disciplinary, and wide-ranging thought process and approach to broad challenges in highly complex areas. This allows our clients to more effectively create, achieve, sustain, and preserve business and household wealth for present and future family generations.
- ***Integrity.*** We believe professional integrity extends beyond the requirements and expectations of law, regulation, and professional codes of conduct. We continuously define the highest possible version of ourselves, we strive toward that version, and we continuously engage Kaizen – the process of continuous improvement of that version. We *know* our highest potential, what needs to be done and how to do it, and what others expect from us. We continuously strive to *be* our highest potential, and we make every effort to *do* what we say we will do. We exemplify accountability, accuracy, confidentiality, consistency, economy, objectivity, and responsibility.
- ***Result - Customer Satisfaction.*** Our technical expertise and integrity in business and financial management services results in exceptional customer benefits and satisfaction.

⁴ Schumpeter Center *Statement of Values*, Number 50.

RESIDENT STAFF

John Michael Donohue

Managing Director
The Schumpeter Center

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John Donohue solves business problems for entrepreneurs, business owners, managers, small business families and associated stakeholders, by applying his knowledge, skill, experience and judgment to business planning, accounting and tax, legal administration, management, public relations, sales and marketing. John is both a practitioner as well as educator. He began organizing community-based seminars for business owners in 1997, ultimately becoming a University instructor in 2008, teaching basic, intermediate, managerial, and payroll accounting; taxation; economics; organizational management and leadership; and

contract law. As a published author and speaker, his contributions to the discourse on business and economics issues extend from individual client counseling to international forums.

Before starting Schumpeter Consulting in 2005, John was an analyst for the Corporate Defense Practice Group of White & Case LLP, an international law firm, and was paralegal supervisor for the largest and most protracted government contracting claims case in United States history – the \$4.8 billion *A-12 Litigation* under the United States Department of Justice. He was also responsible for organizing a consultation of Non-Governmental Organizations for the World Bank in Washington, D.C., to find new ways of increasing stakeholder participation and financial rate of return for the Bank’s lending projects. Before working with the Bank, John administered a program for the International Monetary Fund and the Hubert H. Humphrey Fellowship Program which examined privatization of State Owned Enterprises after the Cold War.

An Army Veteran with 21 years of cross-cultural leadership experience as a member of the Judge Advocate General’s Corps, John served in South Korea, Turkey, Italy, Germany and Japan, retiring at the commissioned rank of Chief Warrant Officer. Of particular relevance to his current work in accounting and tax, John was awarded Army Commendations during his military assignments abroad for establishing a tax assistance program for soldiers of the Second Infantry Division in Korea, and for setting up a full-service legal assistance office for soldiers in Turkey.

John holds a Master of Arts degree in Development Banking from The American University, Washington, D.C., earning *Distinction* in his final comprehensive examination. He holds Bachelor of Science degrees in Accounting, *Cum Laude*, Strayer University; Management Studies, University of Maryland European Division; Liberal Arts/History, University of the State of New York, and two Associate degrees. He was an Honors graduate of the Seventh Army Military Academy, Bad Tölz, Germany, and has completed coursework toward the PhD in Management where his research emphasis is in Corporate Social Responsibility.

INDEPENDENT CLIENT ADVISOR NETWORK

*We regard teamwork as a key personal and business asset.*⁵

Through its distinctive Independent Client Advisor Network (the ICAN), Schumpeter Consulting hosts a vibrant alliance of outstanding professionals in banking, insurance and risk management, investments, law, and public accounting.

- Schumpeter Consulting's Independent Client Advisor Network is a professional referral service where clients may access special services from an integrated panel of experts having diverse business and financial experience.
- ICAN professionals abide by their own Codes of Ethics and regulatory licensure requirements, and maintain their own independent fee structures. Schumpeter Consulting exchanges no remuneration with any ICAN professional.

BANKING

Burke & Herbert Bank & Trust
5519 Franconia Road
Alexandria, Virginia 22310
Established 1852

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Barbara Cupp, Vice President
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1166 Jamestown Road, Suite C
Williamsburg, Virginia 23185-3316
Established 2003

Contact Information:
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AWMA, CRFA
Roberta Jones, Executive Assistant
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LEGAL COUNSEL

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Established 1976

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8150 Leesburg Pike, Suite 500
Vienna, Virginia 22182
Established 1983

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⁵ Schumpeter Center *Statement of Values*, Number 3.

SUMMARY OF SERVICES

Schumpeter Consulting features nine Key Service Areas which define our market space. Each of these service areas are described in greater detail in the sections which follow.

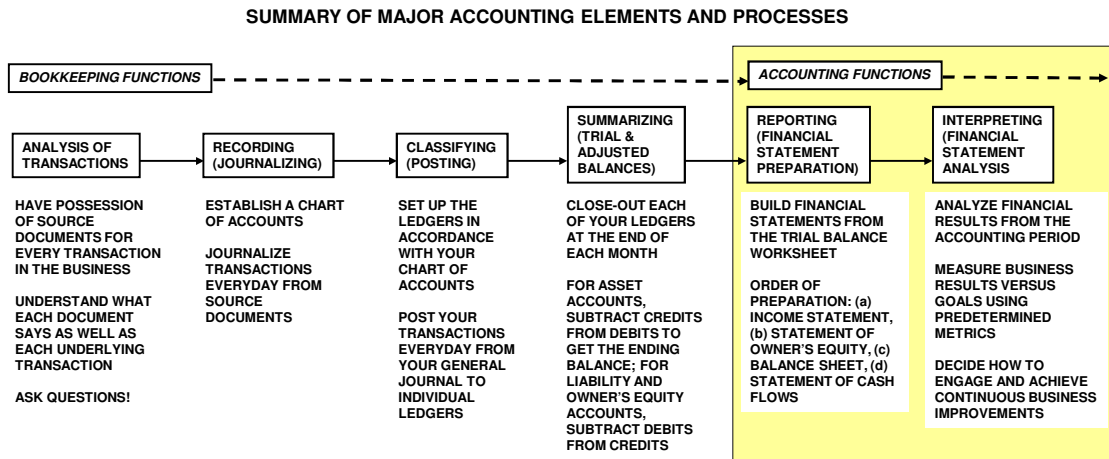
- Bookkeeping and Accounting
- Tax Analysis and Preparation
- Business Entity Formation and Life Cycle Planning
- Tax Exempt Entity Creation and Compliance
- Financial Management
- Estate and Business Succession Planning
- Trust Funding
- Probate, Estate, and Trust Settlement
- Litigation Support and Notarial Services

BOOKKEEPING AND ACCOUNTING

We consider bookkeeping and accounting to be our core business services for three primary reasons:

- I. These services represent the principal financial language of your business and household – these services have *special personal significance* to you, your family, and business stakeholders.
- II. These services represent the baseline on which many of our other services are built such as tax analysis and preparation, business entity formation and life cycle planning, financial management, estate and business succession planning, trust funding, probate, and estate and trust settlement.
- III. The law requires sound bookkeeping and accounting practices for tax and financial reporting purposes. The hand of federal law extends to your personal and business bookkeeping and accounting, and we ably assist you in this important responsibility.
 - o United States Internal Revenue Code (IRC) §6001 states, “[e]very person liable for any tax imposed . . . or for the collection thereof, *shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.*”

We begin these core services by conducting initial triage on your bookkeeping, accounting and recordkeeping systems and we establish procedures for ongoing maintenance of these systems.



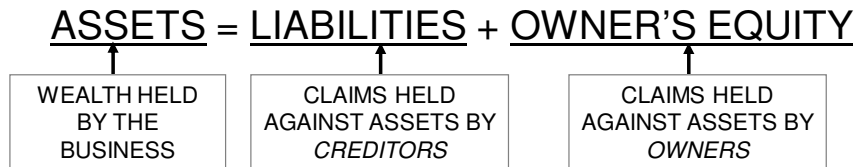
Here is what Schumpeter Consulting can do for you in this area:

- Conduct initial assessment of bookkeeping, accounting and recordkeeping processes and requirements - establish logical nexus between the business plan, accounting systems, and recordkeeping requirements
- Immediate bookkeeping triage:

- Review sales journal or other revenue records - deposit tickets and bank statements
- Review expense records - check stubs and bank statements
- Review list of assets
- Review list of liabilities
- Review statement of owner's equity
- Identify fiscal year
- Identify multistate issues
- Ensure all required government-regulatory registrations have been identified and completed; what registrations are required and which need to be completed?
 - Federal
 - State
 - Local
- Obtain all necessary tax identification numbers as needed (but not limited to these):
 - Federal EIN
 - State Department of Revenue
 - State Sales Tax
 - Employment Commission
- Review current and historical financial statements consisting of (in this order):
 - Income Statement
 - Statements of Owner Equity
 - Balance Sheet
 - Statement of Uses of Cash

ACCOUNTING EQUATION

THE UNIVERSAL LANGUAGE OF HOW A BUSINESS HOLDS WEALTH AND THE CLAIMANTS AGAINST THAT WEALTH



STATED ANOTHER WAY:

$$\text{ASSETS} - \text{LIABILITIES} = \text{OWNER'S EQUITY}$$

- Determine that financial statements are *articulated* - the financial data has *fit-flush-discipline*:
 - Financial information fits together - adds-up
 - Ambiguities flushed-out
 - Forecasts are disciplined - logically linked throughout the financial statements
- Clean-up #1 (bookkeeping and accounting work product):**
 - Review and clean-up existing bookkeeping systems, especially computer application-based platforms
 - Correct historical financial statements where necessary
- Clean-up #2 (tax return completion and compliance):**
 - Review and clean-up existing tax notices, outstanding obligations and tax deposits at all levels of government
 - Identify specific ongoing business tax compliance requirements (federal, state and local)
 - Establish tax compliance calendar for federal and state filing requirements
 - Complete all business tax returns which may be late
 - Gather relevant Internal Revenue Service (IRS) tax reference materials pertinent to your particular business (following is a suggested selection of small business relevant IRS publications in numerical order, with the more important publications in **bold**)
 - Publication 15 (Circular E), Employer's Tax Guide**
 - Publication 15A, Employer's Supplemental Tax Guide**
 - Publication 15B, Employer's Tax Guide to Fringe Benefits
 - Publication 17, Your Federal Income Tax**
 - Publication 51 (Circular A), Agricultural Employer's Tax Guide
 - Publication 225, Farmers Tax Guide
 - Publication 334, Tax Guide for Small Business (Schedule C filers)**
 - Publication 463, Travel, Entertainment, Gift, and Car Expenses
 - Publication 505, Tax Withholding and Estimated Tax**
 - Publication 509, Tax Calendars
 - Publication 510, Excise Taxes
 - Publication 525, Taxable and Nontaxable Income
 - Publication 527, Residential Rental Property
 - Publication 529, Miscellaneous Deductions
 - Publication 531, Reporting Tip Income
 - Publication 535, Business Expenses**
 - Publication 536, Net Operating Losses
 - Publication 537, Installment Sales
 - Publication 538, Accounting Periods and Methods**

- Publication 541, Partnerships
 - Publication 542, Corporations
 - Publication 544, Sales and Other Dispositions of Assets
 - Publication 547, Casualties, Disasters, and Thefts
 - Publication 550, Investment Income and Expenses
 - Publication 551, Basis of Assets**
 - Publication 557, Tax Exempt Status for Your Organization
 - Publication 559, Survivors, Executors, and Administrators
 - Publication 560, Retirement Plans for Small Business**
 - Publication 583, Starting a Business and Keeping Records**
 - Publication 587, Business Use of Your Home**
 - Publication 590-A, Contributions to Individual Retirement Arrangements
 - Publication 590-B, Distributions From Individual Retirement Arrangements
 - Publication 600, State and Local Sales Taxes
 - Publication 925, Passive Activity and At-Risk Rules
 - Publication 926, Household Employer's Tax Guide
 - Publication 946, How to Depreciate Property**
 - Publication 947, Practice Before the IRS and Power of Attorney
 - Publication 966, Electronic Choices to Pay Federal taxes
 - Publication 969, Health Savings Accounts and Other Tax-Favored Health Plans
 - Publication 1518A, IRS Tax Calendar for Businesses and Self-Employed**
 - Publication 1544, Reporting Cash Payments of Over \$10,000
 - Publication 1635, Understanding Your Employer Identification Numbers
 - Publication 1779, Independent Contractor or Employee**
 - Publication 3402, Taxation of Limited Liability Companies
 - Publication 4591, Small Business Federal Tax Responsibilities**
- Clean-up #3 (tax notices and other legal actions pending):**
- Identify and resolve current or expected administrative (government) actions:
 - Claims
 - Litigation
 - Liens
 - Warrants
 - Other pending legal actions
- Prepare Office Administration Charts:
- Chart 1:** Bookkeeping accounts to include account numbering regimen (in this order: asset accounts, liability accounts, owner's equity accounts, revenue accounts, and expense accounts)
 - Chart 2:** Show cross-walk between bookkeeping accounts Chart 1 with tax return revenues and expenses fields. This helps to connect the bookkeeping system with the business tax returns

- Chart 3:** Tax identification numbers
- Chart 4:** Bank account and other business operations numbers
- Chart 5:** Central filing system
- Review the bookkeeping system's general journal
- Review the bookkeeping system's special journals where necessary (four basic special journals):
 - Sales
 - Cash receipts
 - Purchases
 - Cash payments
- Review the bookkeeping system's system of specific-account ledgers:
 - Show cross-walk between bookkeeping accounts Chart 1 with ledgers in use or to be used
- Review business property book:
 - Locate and conduct preliminary inventory of all long term assets (property, plant and equipment)
 - Locate backup business paper (bills of sale or other objective written evidence of asset information) for all long term assets
 - Record key information concerning long term assets (property, plant and equipment) - at a minimum:
 - Names and classes of assets
 - Serial numbers
 - Dates placed in service
 - Cost bases including costs to place in service
 - Useful lives
 - Percentage of business use
 - Review or implement depreciation methods and records for each class of property
 - Accumulated depreciation to date
 - Dates of disposal
 - Special note of installment sales of assets disposed of
 - Capital gain, if any
- Review leases pertaining to any property, plant or equipment
- Establish (or review and clean-up) recordkeeping and filing systems for all accounting-related documentation (special attention to IRS retention guidelines – can be between 3

and 7 years depending on the circumstances described in Table 3, IRS Publication 583)

- Review Employer Identification Number(s)
- Review Human Resources Records (at a minimum):
 - Job descriptions, job announcements and applications received
 - Offer letters and other employment agreements
 - Names, addresses, SSNs and other biographical data for all personnel
 - Time cards and overtime records and earnings rates
 - Personnel attendance records
 - Comprehensive payroll ledgers: pay rates, time period covered by pay, salaries or wages, special payments, expense reimbursements, tax withholdings and dates of payroll disbursement; i.e., record of all increases or decreases to any employee compensation for any reason
 - Copies of withholding forms (W-4, W-4P, W-4S, W-4V)
 - Dates and amounts of tax deposits and deposit proof
 - Copies of 941s, and all other federal, state and local payroll tax submissions
- Review inventory control
- Review cost accounting systems
- Review budgets and budgeting processes
 - Master budget (at a minimum)
 - Sales budget
 - Operating budget
 - Capital budget
- Review purchase order system
- Review petty cash system
- Review expense reporting system (particularly for business-use vehicles, travel, meals and other expenses)
- Review routine accounting cycle procedures:
 - Analyze source documents as they are received
 - Journalize transactions
 - Post transactions to ledgers
 - Summarize ledgers
 - Prepare trial balance
 - Complete adjusting entries
 - Journalize and post adjusting entries

- Prepare financial statements (CPA review) based on the established accounting cycle
- Conduct bookkeeping closing procedures based on the established accounting cycle - monthly, quarterly and annually
- Review owner equity capital accounts and associated personal withdrawals or distributions
- Evaluate and upgrade accounting-related information technology
- Review billing and collections processes and procedures
- Review accounts receivable and aging analysis
- Review accounts payable and aging analysis
- Identify ongoing tax compliance requirements
- Review banking systems and clean-up reconciliations
- Review payroll systems and employee benefits
- Review budgeting and forecasting systems
- Conduct special financial analysis if needed
- Review electronic funds transfer and payment systems
- Review foreign currency exchange systems if applicable
- Review risk management and insurance planning
- Draft Standard Operating Procedures for bookkeeping and accounting and ensure integration with all other aspects of the business
- Train key employees in bookkeeping and accounting systems
- Provide ongoing on-site support in all bookkeeping and accounting areas

TAX ANALYSIS AND PREPARATION

In ancient times, tax preparation was very simple and direct - pay ten percent of your income to the government; specifically, “You shall surely tithe (pay ten percent flat tax) all the produce from what you sow, which comes out of the field every year.”⁶ Based on this simplicity, Moses would have made an extraordinary Secretary of the Treasury if he were with us today.

The foregoing tax law is *nineteen words in length*. Today, the United States Internal Revenue Code is somewhere between 2.1 and 3.7 million words or longer, and so complex, that 6 out of every 10 taxpayers are compelled to rely on paid tax preparers.⁷ This complexity excludes separate innumerable United States Treasury regulations, tax court decisions, tax enforcement field manuals, and many other sources of law and regulation which must be recognized. One must then consider untold legions of *additional state and local government tax regulations* where appropriate, further enhanced by a lack of consistency across jurisdictions. Aside from tax-related rules, we must also recognize the essential rules of bookkeeping and accounting which influence how we quantify financial and economic transactions, which ultimately reflect back on how we do our taxes.

It is by no surprise, therefore, that most taxpayers gaze into the general notion of taxes, much the same as a deer would gaze into the headlights of an oncoming car, mystified about the entire institution of taxes, and the potential for error and injury. Among countless questions often asked by clients: Why do certain taxpayers lawfully pay more in taxes than others? Why do certain taxpayers lawfully pay no tax whatsoever? Why is the tax code so complex that it is nearly impossible for many people to simply do their own taxes? Why do taxing agencies often regard simple errors as potential fraud?

There should be little controversy when comparing these complexities to the relative attractiveness of a flat tax system, as has often been considered by economists and lawmakers, and had been well-defined by our revenue agent, Moses.

Conventional training of many tax practitioners often does not provide clarity with regard to the foregoing complexities; and surprisingly, many practitioners really don't care. For example, contrary to the belief of many practitioners, a taxpayer's tax return is *not* a history of that taxpayer's financial condition or progress. The tax law, already too complex for most people to understand, is a constantly shifting target, literally changing every day. This does not lead toward any type of reliable household or business financial history.

Considering also, that most taxpayers file taxes with not only the IRS, but with state, county, and local governments, each imposing different rules, would there then be multiple “financial histories” for any given taxpayer? Of course not! Rather, a simple set of financial statements (income and net worth statements) represents a person's or company's financial history far better than any tax reporting regime. Arguably, even the household checkbook makes for

⁶ Deuteronomy 14:22 (The New American Standard Bible). For further discussion, see <http://biblehub.com/malachi/3-10.htm>.

⁷ For an IRS-published discussion of its own complexity, see https://www.irs.gov/pub/tas/08_tas_arc_msp_1.pdf.

better history than does a personal or entity-type tax return.

In any event, ever-changing complexities leave many tax clients in a perpetual state of uncertainty and anxiety, which frustrates individual and family finances and a well-ordered free market economy.

What's more, consider that there are at least three "shadow prices" to the tax process beyond the payment of taxes *per se*:

- I. **The Cost of Uncertainty.** Individuals and business entities loathe uncertainty, and any form of uncertainty – whether or not stemming from tax complexity - generally will tend toward discouraging private investment which lowers productivity at every level of the economy.
- II. **The Cost of Compliance.** The monstrous cost of tax compliance (the cost of managing one's tax responsibilities, paying tax professionals, and so forth) represents private wealth forever diverted and lost from other productive uses which lowers productivity at every level of the economy.
- III. **The Cost of Avoidance.** The ever-changing and ever-confounding tax law leaves many people so confused that they simply stop complying, which places an extra burden on the entire structure and system of taxation which lowers productivity at every level of the economy.

Nevertheless, in conceding that taxes are inevitable, it may be useful to at least *try* to grasp a few basic principles that drive this institution. We offer the following general outline on tax concepts followed by a description of Schumpeter Consulting services available to assist clients in this responsibility.

Mills' Classical Concept of Taxation.

The [citizens] . . . ought to contribute to the support of the government, as nearly as possible in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the state.⁸

Legal Foundations for the Requirement to Pay Taxes – The Constitution, Courts, and IRS.

But specifically, why do we pay taxes – what compels us to submit ourselves to being taxed? It is because *We the People* through the Supreme Law of the Land, the United States Constitution, grant Congress the power to tax:

The Congress shall have the Power to lay and collect Taxes, Duties, Imposts and Excises to pay the Debts and provide for the common Defense and general Welfare of the United States.⁹

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to

⁸ Mill, J.S. (1848). *Principles of Political Economy with some of their Applications to Social Philosophy*. Book V, Chap. II. On the General Principles of Taxation. William J. Ashley, ed. 1909. Library of Economics and Liberty. Retrieved from www.econlib.org/library/Mill/mlp64.html.

⁹ The Constitution of the United States, Article 1, Section 8, Clause 1. The Constitution was signed in September 17, 1787, and made binding by ratification of 9 of the 13 states on June 21, 1788.

any census or enumeration.¹⁰

In the United States, the Department of the Treasury, established in 1789, collects all federal taxes through its collection agency, the Internal Revenue Service (IRS). Treasury is also responsible for printing and minting paper currency and coin, for managing U.S. government debt instruments, and for performing other functions.¹¹

Consonant with the Constitution's grant of power to Congress, the Internal Revenue Code (IRC) states:

Any person made liable for any tax imposed . . . or with respect to the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary. Every person required to make a return or statement shall include therein the information required by such forms or regulations.¹²

There is a balance, however, where the courts have clearly stated that "all do right" by arranging our affairs such that our tax liability is *minimized*.

As stated by Circuit Court Judge Learned Hand in his 1934 *Helvering* decision:

Any one may so arrange his affairs that his taxes shall be as low as possible; he is not bound to choose that pattern which will best pay the Treasury; there is not even a patriotic duty to increase one's taxes.¹³

Judge Hand further stated in his 1947 *Newman* decision:

Over and over again, courts have said that there is nothing sinister in arranging one's affairs as to keep taxes as low as possible. Everybody does so, rich and poor; and all do right, for nobody owes any public duty to pay more than the law demands: taxes are enforced exactions not voluntary contributions.¹⁴

Take note of the position of the Internal Revenue Service (IRS) itself:

Avoidance of taxes is not a criminal offense. Any attempt to reduce, avoid, minimize, or alleviate taxes by legitimate means is permissible. The distinction between avoidance and evasion is fine, yet definite. One who avoids tax does not conceal or misrepresent. He/she shapes events to reduce or eliminate tax liability and, upon the happening of the events, makes a complete disclosure. Evasion, on the other hand, involves deceit,

¹⁰ The Constitution of the United States, Amendment 16, ratified February 3, 1913.

¹¹ 31 U.S. Code § 301 - Department of the Treasury.

¹² IRC §6011. The Internal Revenue Code (IRC) is a set of regulations aimed at implementing the above Constitutional Amendment. The Internal Revenue Service (IRS) is the nation's formal tax collection agency working on behalf of the United States Treasury.

¹³ Judge Billings Learned Hand (1872-1961) served on the United States District Court for the Southern District of New York and later the United States Court of Appeals for the Second Circuit. The quote is from Judge Hand's decision in the case captioned as *Helvering v. Gregory*; 69 F. 2d 809, 810 (2nd Circuit, 1934). This case was later affirmed by the United States Supreme Court in *Gregory v. Helvering*; 293 U.S. 465, 55 S.Ct. 266, 79 L.Ed. 596, 97 A.L.R. 1355, 35-1 USTC P 9043, 14 A.F.T.R. 1191, (1935) in an opinion written by United States Supreme Court Associate Justice George Sutherland.

¹⁴ *Commissioner of Internal Revenue v. Newman*, 159 F.2d 848 (2d Cir. 1947).

subterfuge, camouflage, concealment, some attempt to color or obscure events or to make things seem other than they are.¹⁵

Reviewing this evolution of law and the controversies that emanate from interpretation, and considering its direct consequences for individuals, households, businesses, trusts, and estates, it is easy to see why the absolute attainment of tax compliance is elusive, and responsibilities so perilous.

The Development of Schumpeter Consulting in These Areas.

Clients seek our advice on reaching their individual and business goals while also being burdened by tax responsibilities. Schumpeter Consulting understands the challenges of tax complexities on Federal, state, local, as well as global levels, and the varieties of compliance procedures at each of these levels.

Schumpeter Consulting understands tax responsibilities, and expertly prepares and e-files federal and state tax returns including multi-state tax returns where necessary, using state-of-the-art professional tax preparation computer software.

Schumpeter Consulting prepares the following types of tax and information returns (but not limited to these):

- Individuals (including sole proprietorships) – Form 1040 and schedules, or Form 1040A, or Form 1040EZ (prepared manually)
- Decedent’s Final Form 1040
- Partnerships – Form 1065 and schedules
- Limited Liability Companies – either Schedule C with Form 1040 (classified as a Disregarded Entity), or Form 1065 (classified as partnership)
- S Corporations – Form 1120S
- C Corporations – Form 1120
- Tax exempt entities – Form 990, 990EZ, or E-postcard
- Trusts – Form 1041
- Estates – Form 1041, and/or Form 706
- Gifting – Form 709
- Other special purpose entities
- State-level tax and information returns

Here is what Schumpeter Consulting can do for you in this area:

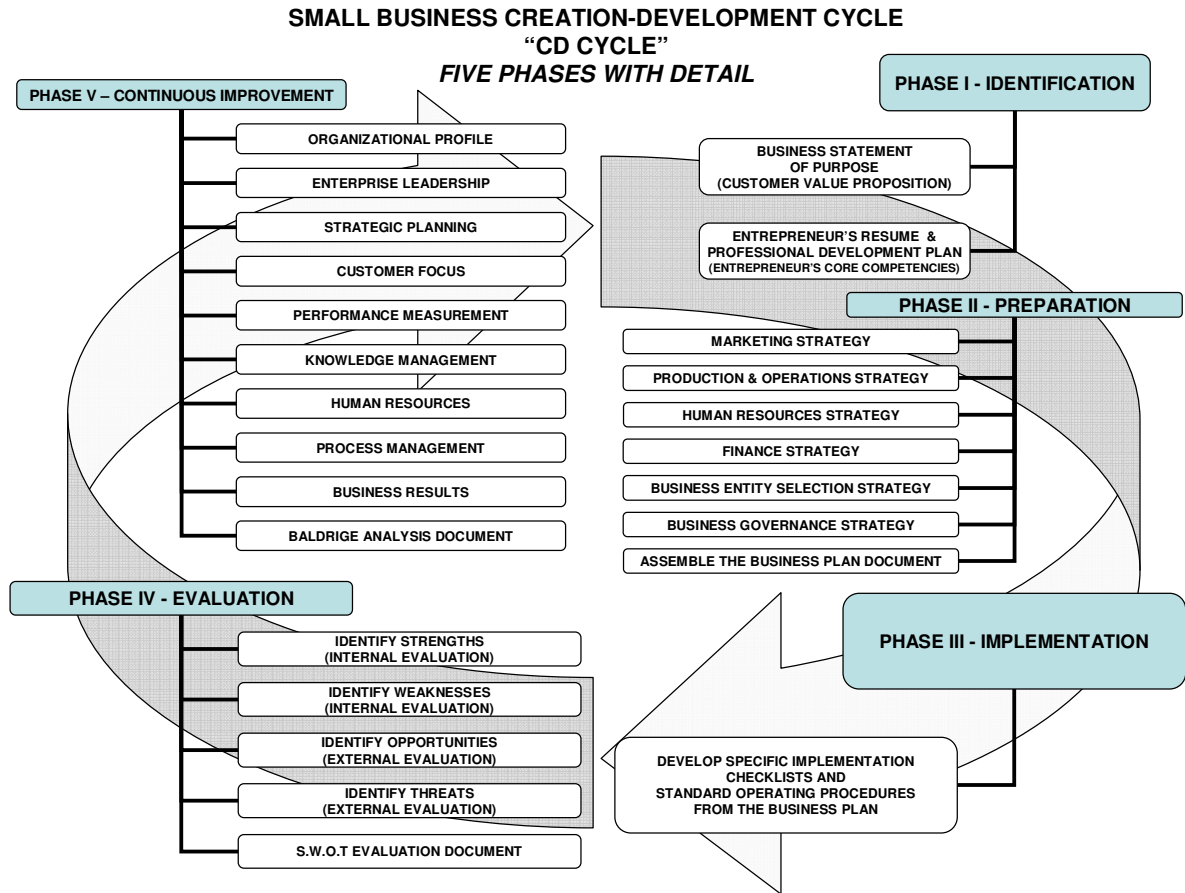
- Ensure required tax forms and filing requirements are identified based on the particular tax situation
- Ensure filing deadlines are known in advance

¹⁵ Internal Revenue Manual, Part 9, Chapter 1, Section 3, Subparagraph 3.2.1: Avoidance Distinguished From Evasion. Also see Internal Revenue Manual, Part 25, Chapter 1, Section 1, Subparagraph 2.4: Overview/Definitions.

- Review prior tax filings
- Review appropriate tax preparation checklists or client organizers
- Incorporate and integrate pre-existing bookkeeping and accounting systems information
- Locate and organize all source documents including, but not limited to
 - W-2s for all wage earners
 - 1099s for Independent Contractors and other non-wage recipients of compensation
- Complete the tax returns with proper analysis as to income, expenses, deductions, credits, exclusions, and other appropriate considerations
- File tax returns electronically where appropriate
- Respond to inquiries from federal, state, or local tax authorities where needed
- Prepare amended tax returns where appropriate

BUSINESS ENTITY FORMATION AND LIFE CYCLE PLANNING

The Schumpeter Center *literally wrote the book* on small business creation and development.¹⁶ We maintain a holistic approach to small business creation, development, and redevelopment - creating new enterprises and refurbishing existing ones. Our proprietary *Small Business Creation-Development Cycle* - the *CD Cycle* - represents our core framework for all business creation, development, and improvement services:



¹⁶ Donohue, J. M. (2010). *Small Business Creation and Development*. Ruckersville, VA: Schumpeter Enterprise Institute.

Here is what Schumpeter Consulting can do for you in this area:

- Define your Business Statement of Purpose using our OMAR technique, which is iterative with all other parts of the business plan
 - Overview - business name, date established, location
 - Mission - definition of the core business
 - Approach - how the core business is executed
 - Result - benefits received by customer and other stakeholders
- Determine Marketing Strategy
- Determine Production and Operations Strategy
- Determine Human Resources Strategy
- Determine Finance Strategy
- Determine Business Entity Selection Strategy
- Determine Governance Strategy
- Prepare resumes for key principals
- Prepare Professional Development Plans for key employees
- Determine Business Communications Strategy
- Conduct Initial Baldrige Assessment¹⁷
 - This assessment consists of an Initial Organizational Profile, and may build into seven additional evaluation areas: Leadership; Strategic Planning; Customer and Market Focus; Measurement, Analysis, and Knowledge management; Human Resource Focus; Process Management; and Business Results
- Train your key employees in business planning areas
- Review and update your business plan
- Review or modify your formal business organization through State Corporation Commission
- Complete your annual business registrations through the State Corporation Commission
- Conduct annual business meetings
- Conduct expanded Baldrige Evaluation (begins where the Initial Organizational Profile left off, and now continuing into seven additional evaluation areas):
 - Leadership
 - Strategic Planning
 - Customer and Market Focus

¹⁷ See <https://www.nist.gov/baldrige/publications/baldrige-excellence-framework/businessnonprofit>.

- Measurement, Analysis and Knowledge Management
- Human Resource Focus
- Process Management
- Business Results
- Draft Standard Operating Procedures for general business operational areas and ensure integration with all other aspects of the business
- Train your key employees in resource planning and Continuous Improvement areas
- Provide ongoing on-site support in resource planning and Continuous Improvement areas

NON-PROFIT AND TAX EXEMPT ENTITY CREATION AND COMPLIANCE

Schumpeter Consulting guides clients in attaining and sustaining non-profit and tax exempt status for appropriate organizations. Because these types of organizations are designed to provide a stated public benefit, once approved by appropriate government agencies, they are not subject to corporate federal income tax on income from activities that are substantially related to the purposes for which they are granted such exempt status.

There is a distinction between organizations set up as non-stock corporations - structured for a non-profit purpose - contrasted with organizations which have received tax exempt status:

- *Non-profit* refers to the characterization of the entity, organized as a non-stock corporation, which is organized under the laws of the state for a non-profit purpose.
- *Tax exempt* refers to a specific status granted by the Internal Revenue Service (IRS) under various Code Sections.
 - Most people recognize the tax exempt designation of 501(c)(3); however as of this publication, there are 35 variations of tax exempt entity type ranging from 501(c)(1) through 501(c)(28); 501(d) through 501(n); 521(a); 4947(a)(1) through 4947(a)(2); and 170(c)(1).
 - For purposes of our description in this Section, we assume the entity is seeking to obtain, or has already obtained, a tax exempt 501(c)(3) designation (e.g., Religious, Educational, Charitable, Scientific, Literary, *et al.*).
 - A chart describing all tax exempt entity types as of this publication is provided at the end of this Section.
- A non-profit organization receives recognition from the IRS as being tax exempt.
 - Sequence is to (1) form the *non-stock, non-profit* entity via the State Corporation Commission, and (2) obtain *tax exempt status* for the pre-existing non-profit entity via the IRS.
 - IRS notification of approval for tax exempt status is conveyed via Determination Letter (which differs from an Affirmation Letter which the public can request for confirmation of the organization's original tax exempt determination).

Tax exemption is the result of a non-profit organization being recognized by the IRS as being organized for any lawful purpose.

- A tax exempt and non-profit organization may be exempt from most federal income taxes and some state taxes, such as sales and property taxes. Also, its donors may be able to take a tax deduction for their donations to the organization.
 - A complete list of Internal Revenue Service Subsection Codes for tax exempt organizations, whether or not contributions to them are tax deductible, is provided at the conclusion of this section.

Non-profit and tax exempt status generally involves five levels of stakeholders:

- I. The *organization* seeking tax exempt status based on a compelling social purpose and goal.

- II. *Donors* who will donate money or other resources of value to the organization and potentially receive a tax deduction for such donations.
- III. *Beneficiaries* who receive the intended benefits of the organization, according to the organization's social purpose and goal.
- IV. The *state government* which grants a non-stock corporate charter to the organization.
- V. The *Federal government* which ultimately grants the tax exempt status.

Tax exempt status theoretically provides Pareto optimality (win-win consequences) at the following levels (but not limited to these); and the degrees to which tax exempt organizations achieve these qualities will of course vary extensively:

- I. ***Overarching Benefits to Society.*** Social purposes and goals may be carried out, which might otherwise not be pursued.
- II. ***Tax Deduction for Donors.*** Donations made by taxpayers to tax exempt status tax exempt organization may reduce the donor's taxable income which represents an incentive for donors to make contributions.
- III. ***Ease in Allocating Resources.*** The tax exempt organization may more easily raise money for its stated charitable purposes.
- IV. ***Accrual of Benefits to Specific Intended Beneficiaries.*** The intended beneficiaries more easily receive the benefits which the tax exempt organization is designed to provide them.
- V. ***Adds Legitimacy.*** Obtaining tax exempt status gives potential donors a greater likelihood of seeing the organization as legitimate.

Financial and operating information for the tax exempt entity required to be reported to the IRS becomes public record, which allows the public to more easily scrutinize and hold the organization more accountable.

Here is what Schumpeter Consulting can do for you in this area:

- Draft an initial Statement of Purpose for the tax exempt organization which provides a general conceptual framework for informing the organization's initial formation.
 - As previously stated, the organization seeking tax exempt status must have a compelling social purpose and goal, which informs its Statement of Purpose.
- Determine the name of the tax exempt organization.
 - The proposed entity name must be unique and permissible.
 - Conduct a name search via the Office of the Clerk, State Corporation Commission.
- Assist in drafting the organization's Business Plan.

Refer to the previous section entitled, Services – Business Entity Formation and Life Cycle Planning.

- Identify intended beneficiaries: who, what where, why, when, and how.
- Specify the organization's specific social program(s) to be offered to beneficiaries.

- Draft the organization's Value Proposition – the organization's compelling social purpose and goal – the value provided to intended beneficiaries.
- Financial budget – projected income, expenses, and disbursements to beneficiaries.
 - Although the organization is non-profit, it is still necessary to achieve positive net income.
 - Non-profits are allowed to be profitable; i.e., achieve positive net income, but the income and profits must be used to advance the organization's stated public purpose.
- Measures of program achievement.
- Assist in appointing a minimum of three directors depending on the needs of the organization and state requirements.
 - All corporations must have directors who are charged with, among other things, overseeing the organization, advising management, and appointing and supervising the initial executive officers.
- Assist in organizing and conducting the Formational Director's Meeting.
 - Appoint or elect executive officers and prepare organizational documents and bylaws.
- Start a Corporate Book for maintaining minutes from the Formational Director's Meeting and subsequent meetings.
- Apply for and obtain a non-stock corporation at the state level.
 - In Virginia, this may be completed via the State Corporation Commission, Office of the Clerk.
- Draft and complete Articles of Incorporation which will be supplied with the application for a non-stock corporation.
 - For a corporation to qualify under section tax exempt status of the Internal Revenue Code, its Articles of Incorporation *must* contain specific "legally sufficient" language as prescribed in IRS Publication 557.
- Obtain a Federal Tax Identification Number from the Internal Revenue Service (IRS) using Form SS-4.
- Draft and complete Bylaws, representing rules by which the Board of Directors will follow.
- Apply for and obtain actual tax exempt status from the IRS.
 - Process governed by IRS Publication 557.
 - Requires completion of IRS Form 1023.
 - Granting tax exempt status *per se* is accomplished via the IRS, not the state, even though the tax exempt entity operates as a non-stock corporation, which itself is granted by state-issued charter.

- The IRS Form 1023 process is recognized as a self-examination and narrative of the proposed tax exempt organization's stated purpose, programs, governing structure.
- Ensure that any potential conflicts of interest (potential benefits to insiders) are addressed and resolved as part of the application narrative.
- Ensure that Form 1023 includes all necessary supporting documents, as attachments. The Form 1023 and its attachments are to be comprehensive.
- Information included in Form 1023 serves as the basis for the IRS to decide whether to grant tax exempt status.
- Follow the Form 1023 Checklist to ensure all required information is included in the application and to prevent processing delays.
- The application process results in the IRS granting a ruling or determination letter which authorizes exempt status.
 - The IRS letter is generally effective as of the date of formation of the organization.
- Open an organizational bank account.
- Obtain letterhead.
- Conduct an initial organizational meeting.
- Conduct ongoing Board meetings.
- Maintain meeting minutes in the Corporate Book.
 - Organizational documents must generally be made available to the public.
- Determine requirement for a state-level Charitable Solicitations Registration, as required in 40 states and is usually administered through the Attorney General's office. Most states require registration prior to soliciting donations.
- Determine requirement for a State Corporate Tax Exemption. Most states recognize the Federal tax exempt status as valid for state corporate tax exemption; however some jurisdictions require their own application and review process for charity status.
- Determine requirement for a State Sales Tax Exemption. Most states grant an exemption to charities that allows them to purchase items for use by the organization without having to pay sales tax.
 - Applying for exemption usually requires the organization to already obtain IRS-level tax exempt status.
- Obtain permits or licenses required to operate the entity and ensure compliance local regulations.
- Comply with annual IRS requirements to file Form 990 or Form 990-EZ.
 - In these forms, you will report your organization's activities, governance, revenue, expenses and net assets. Be aware that your completed form will be publicly available. State government agencies may require a copy.

- Have diverse funding sources.
 - Tax exempt status organizations are supposed to be public; if you have too few funding sources, you might have to reorganize as a private foundation. Foundations must operate by a completely different set of rules.
- Run your organization like a business with its own bank account and credit card.
 - Keep all financial transactions completely separate from your personal accounts.
- Keep impeccable financial records in case your organization is audited.
- Do not allow your organization to participate in any political campaigns.
- Do not unjustly enrich anyone compensated by your organization.
- Do not use your organization to further non-exempt purposes or to commit illegal acts.
- Do not allow a substantial part of your organization's activities to be geared toward influencing legislation.
- Avoid earning unrelated business income through your organization.
 - This is income from an activity that is carried out but is not substantially related to your organization's purpose; such income may be subject to the unrelated business income tax.

TAX EXEMPT ORGANIZATION TYPES	
<i>Each type has its own rules on whether contributions to them are tax deductible by a donor</i>	
Internal Revenue Code (IRC) Section	Description
501(c)(1)	Corporations Organized under Act of Congress (including Federal Credit Unions)
501(c)(2)	Title Holding Corporation for Exempt Organization
501(c)(3)	Religious, Educational, Charitable, Scientific, Literary, Testing for Public Safety, to Foster National or International Amateur Sports Competition, or Prevention of Cruelty to Children or Animals Organizations
501(c)(4)	Civic Leagues, Social Welfare Organizations, and Local Associations of Employees
501(c)(5)	Labor, Agricultural, and Horticultural Organizations
501(c)(6)	Business Leagues, Chambers of Commerce, Real Estate Boards, Etc.
501(c)(7)	Social and Recreational Clubs
501(c)(8)	Fraternal Beneficiary Societies and Associations
501(c)(9)	Voluntary Employees Beneficiary Associations
501(c)(10)	Domestic Fraternal Societies and Associations
501(c)(11)	Teacher's Retirement Fund Associations
501(c)(12)	Benevolent Life Insurance Associations, Mutual Ditch or Irrigation Companies, Mutual or Cooperative Telephone Companies, Etc.
501(c)(13)	Cemetery Companies

TAX EXEMPT ORGANIZATION TYPES	
<i>Each type has its own rules on whether contributions to them are tax deductible by a donor</i>	
Internal Revenue Code (IRC) Section	Description
501(c)(14)	State Chartered Credit Unions, Mutual Reserve Funds
501(c)(15)	Mutual Insurance Companies or Associations
501(c)(16)	Cooperative Organizations to Finance Crop Operations
501(c)(17)	Supplemental Unemployment Benefit Trusts
501(c)(18)	Employee Funded Pension Trust (created before June 25, 1959)
501(c)(19)	Post or Organization of Past or Present Members of the Armed Forces
501(c)(21)	Black Lung Benefit Trusts
501(c)(22)	Withdrawal Liability Payment Fund
501(c)(23)	Veterans Organizations (created before 1880)
501(c)(25)	Title Holding Corporations or Trusts with Multiple Parents
501(c)(26)	State-Sponsored Organization Providing Health Coverage for High-Risk Individuals
501(c)(27)	State-Sponsored Workers' Compensation Reinsurance Organization
501(c)(28)	National Railroad Retirement Investment Trust
501(d)	Religious and Apostolic Associations
501(e)	Cooperative Hospital Service Organizations
501(f)	Cooperative Service Organizations of Operating Educational Organizations
501(k)	Child Care Organizations
501(n)	Charitable Risk Pools
521(a)	Farmers' Cooperative Associations
4947(a)(1)	Non-Exempt Charitable Trust
4947(a)(2)	Split-Interest Trust
170(c)(1)	Government Entity

FINANCIAL MANAGEMENT

An individual's life as a business owner or principal stakeholder cannot be separated from his or her personal household affairs. This is especially true in the realm of financial management. We build our services on this certainty, providing coordinated personal financial and tax planning.

In working with many clients in diverse situations, we observe a very clear connection among and between the following components in the life of a business owner which invariably require careful coordination:

- Business plan
- Business accounting system
- Personal and household finance
- The desires of the business owner regarding succession ownership of the business by means of personal estate planning techniques.

Here is what Schumpeter Consulting can do for you in this area:

- Prepare a personal financial organizer - *The Million Book* - a comprehensive record of household finances
- Prepare an initial set of personal financial statements:
 - Income Statement
 - Net Worth Statement
 - Personal household budget
- For the income statement (also applies to maintenance of household budgets):
 - Identify and measure all sources of personal and household income
 - Review debts and payments against debts (articulated with the net worth statement)
- For the net worth statement:
 - Identify and measure all current assets (those that can be converted to cash in one year or less)
 - Conduct household personal property inventory and estimate values
 - Identify and measure all long-term assets
 - Identify and measure all current liabilities (those that are expected to be paid off in one year or less)
 - Identify and measure all long-term liabilities
- Review personal bank accounts and banking relationships
- Identify personal tax compliance requirements and review additional personal tax issues
- Complete personal tax returns:

- Review nexus between personal tax returns and business entity ownership:
 - For business sole proprietorships, primarily review Schedule C
 - For real estate activities, primarily review Schedule E
 - For farming activities, primarily review Schedule F
 - For partnership or Subchapter S corporation activities, primarily review Schedules K-1
 - For Limited Liability Company activities, primarily review how the LLC is organized to determine if Schedule C or Schedule K-1 is to be used
- Review your current personal insurance portfolio:
 - Auto
 - Other property and casualty
 - Life
 - Medical
 - Disability
 - Long-term care - Medicare supplement
 - Professional liability umbrella
- Help you identify your personal financial goals - short- and long-term:
 - Education goals
 - Other professional development goals
 - General capital accumulation goals
 - Business ownership goals
 - Emergency fund goals
 - Goals as to general financial independence
 - Goals as to survivor needs
 - Retirement goals
 - Goals for charitable giving
 - Other personal financial goals
- Initiate general financial planning commensurate with personal financial goals:
 - Ensure personal financial goals are fully collaborated with spouse and other family members
 - Identify any personal health concerns as may influence personal financial planning
 - Establish specific budgets for financial goal attainment
 - Review current investments for financial goal attainment

- Review possible asset re-allocation
- Review application of monthly surplus income to investment portfolio
- Determine need for asset gifting based on current estate and gift tax exemptions

ESTATE AND BUSINESS SUCCESSION PLANNING¹⁸

*Schumpeter Consulting continuously aligns its individual business strengths and technical skills in response to customer requirements.*¹⁹

By working with clients in many other areas such as tax analysis and preparation, business entity formation and life cycle planning, and financial management, we have inevitably encountered many clients with a strong need for establishing formal estate plans and business succession plans.

PERSONAL ESTATE PLANNING

Personal estate planning is the process of making a plan in advance and naming whom you want to receive the things you own after you die,²⁰ or simply, dictating to a surviving fiduciary how you want your affairs to be settled upon your illness, disability, death. For most clients, the personal estate planning process, or creating an estate plan, can be as simple as making a Last Will and Testament, to creating a Revocable Living Trust with several ancillary documents.

A well designed estate plan *can* accomplish the following, depending on the level of actual estate planning accomplished:

- Minimize probate, taxes, court costs, and unnecessary legal fees.
- Provide specific instructions for passing your *values* (religion, education, hard work, etc.) in addition to your *valuables*.
- Provide specific Instructions for your care if you become disabled before you die.
- Name a guardian and an inheritance manager for minor children.
- Provide for family members with special needs without disrupting government benefits.
- Provide for loved ones who might be irresponsible with money or who may need future protection from creditors or divorce.
- Include life insurance to provide for your family at your death, disability income insurance to replace your income if you cannot work due to illness or injury, and long-term care insurance to help pay for your care in case of an extended illness or injury.
- Provide for the transfer of your business at your retirement, disability, or death.
- Provide a means of reviewing estate planning as an ongoing process, not a one-time event. Your plan should be reviewed and updated as your family and financial situations and laws change over your lifetime.

¹⁸ Neither The Schumpeter Center nor any of its business units are licensed to practice law on behalf of its clients. In matters involving estate planning or other matters of law where its clients require legal services, Schumpeter Consulting can refer its clients to its own legal advisor, or can work directly with counsel directly chosen by the client.

¹⁹ Schumpeter Center *Statement of Values*, Number 50.

²⁰ Introductory matters adopted from <https://www.estateplanning.com/What-is-Estate-Planning/>.

Here is what Schumpeter Consulting can do for you in this area:

- Review all existing estate planning methods and documents:
 - Personal estate planning by simple Last Will and Testament
 - Personal estate planning by Revocable Living Trust:
 - Trust and amendments
 - Abstract of Trust
 - Trust Affidavit
 - Amendments to existing trusts
 - Pour-Over Will and codicil(s)
 - Durable Power of Attorney
 - Appointment of fiduciaries
 - Appointment of guardians for children or special-needs family members
 - Precatory Directive
 - Real estate deeds
 - Personal property deeds (includes transfer of personal property to any business entities concurrently owned)
 - Advanced medical directive - health care Power of Attorney
 - Anatomical gift
 - Assignment of business interests to the trust
 - Other Trust Devices:
 - Single or married A trust
 - Married or unmarried AB trust
 - Married ABC trust
 - QTIP Trust
 - Partner AA Trust
 - Spendthrift Trust
 - Medicaid Planning / Catastrophic Trust
 - Qualified Plan Trust
 - Charitable Remainder Trust
 - Insurance Preservation Trust
 - Qualified Personal Residence Trust
- Trust funding
- Trust and estate settlement upon death of first or subsequent Trustmaker

- Business succession planning:
 - Determine if business will be retained by other current joint owners, distributed to heirs, or discontinued
 - Determine how business succession planning will be formally carried out
- Conduct further estate and business succession planning by Will, Revocable Living Trust, additional family business entities or by gifting
- Determine your estate settlement costs:
 - Estimate last expenses
 - Probate versus non-probate
 - Costs covered by life insurance versus other assets

BUSINESS SUCCESSION PLANNING²¹

Business succession planning involves the identification and development of potential successors in an organization. This planning looks forward to future critical vacancies of management and ownership positions by forecasting the talent necessary to fill these roles, and to provide the groundwork and understanding of the characteristics needed to maintain a company's strategic plan.²²

- Many of our clients have an ownership stake in closely held business entities which they own and/or manage individually, or own and manage with family members. These generally include (with or without direct day-to-day management responsibilities):
 - Full business owners (100 percent of the stock; or in the event of an LLC, then 100 percent of LLC ownership interest), or
 - Minority interest (partial) owners.
- Participation in entity types such as regular C corporations, pass-through S-type corporations, Limited Liability Companies organized as disregarded entities (assimilating traits of a sole proprietorship) or organized as partnerships are common. Our clients' participation in formal partnerships as general or limited partner status is also common.

It is vital to work out ahead of time how these variations of ownership and management are to be successfully administered in the event one or more of the principals wants to either:

- Discontinue business management or ownership during his or her lifetime; or in the event of illness or death,

²¹ The extensive body of academic literature regarding business succession planning may be informally divided into (a) financial planning (how to *fund* successor owners); or (b) human resource planning (how to *groom* successor owners); or (c) *management* succession *with* a financial stake; or (d) *management* succession *without* consideration for a financial stake; or (e) public sector succession (government entities and universities) versus private sector succession (corporations); or any combination of these. We draw a circle around these broad variations by limiting the scope of this discussion and our services to simply "estate planning for small business owners."

²² Kowalewski, S. J., Moretti, L., & McGee, D. (2011). Succession planning: Evidence from "Best Companies in New York." *International Journal of Management and Marketing Research*, 4(2), 99-108.

- How business management or ownership interests will be administered by:
 - A Power of Attorney or Medical Directive designee (if the principal becomes ill and cannot act on his or her own behalf); or an
 - Administrator (if the principal dies and there is no will); or an
 - Executor (if there is a Last Will and Testament); or by a
 - Successor trustee (if there is a Revocable Living Trust), with respect to the decedent's estate.

Business succession planning may be regarded as the next higher level of financial plans, up from basic individual and family financial planning, and business entity formation and life cycle planning, and personal estate planning. In the absence of business succession planning, "anything goes." For example, there are many cases where a business owner fails to plan in advance, passes away, and the remaining business principals end up in unwanted or awkward association with successor owners not previously anticipated. Succession planning is an ongoing process that assists a business organization in systematically preparing, developing, and in many cases financing the next cohort of owners and managers so that there is a smooth transition – a continuity – in the event an existing principal wants to make an exit, or passes away. Just as an individual or family might have an estate plan, the business succession plan is a type of estate plan for a business entity. It is essential to engage special business succession planning tools when working with clients who have business ownership positions, given the many variations of entity type.

Here is what Schumpeter Consulting can do for you in this area:

- Help you choose a successor business owner or manager.
- Help you prepare the successor for business ownership and management.
 - Establish successor training.
 - Work out transfer timing.
- Decide on specific succession goals and ensure goal conflicts are addressed and resolved.
- Structure the business transfer.
 - Set up a Revocable Living Trust.
 - Minimize tax ramifications.
 - Look at which of the following types of succession plans and accompanying documents would be most appropriate:
 - Buy-sell agreement.
 - Cross-purchase agreement.
 - Stock redemption plan.
- Administer the business transfer process as part of the organization's annual meeting.

TRUST FUNDING

Individuals who create trusts must ensure that appropriate assets are transferred into that trust. While this maxim appears to be obvious, the process of funding the trust is often overlooked, or may not proceed efficiently. A trust which is not properly funded is defective.

Here is what Schumpeter Consulting can do for you in this area:

- Compile an initial household Net Worth Statement, particularly a comprehensive list of all personal and household assets.
- Ensure that all personal, household, family, and business interests are re-titled to the revocable living trust, or other trust instruments set up by legal counsel, so that the estate plan accomplishes what it is intended to do.
- Prepare a personal financial organizer - *The Million Book* - a comprehensive record of household finances reflecting how finances, particularly assets, are coordinated with trust and other estate planning instruments.

PROBATE, ESTATE, AND TRUST SETTLEMENT

Upon someone's death, it is necessary to ensure that the decedent's affairs are properly concluded. Specifically, this means making a detailed inventory of the decedent's assets, liabilities (to include taxes that need to be completed and/or paid), specific financial accounts (banks, investments, etc.), and other personal property, among other things.

The surviving representative for the decedent (an administrator, executor, or successor trustee) if such representative was appointed prior to the decedent's death, needs to ensure the decedent's taxes and bills are paid, accounts are closed, and that any remaining assets are distributed to one or more beneficiaries according to the decedent's wishes (if the decedent created a legally sufficient Last Will and Testament or Trust prior to death); or in the case there are no such documents, final disposition of remaining assets will follow either appropriate rights of survivorship or the laws of intestacy if there is no Last Will and Testament.

Depending on the type of estate plan, if any, left behind by the decedent, the representative must also determine if a formal probate proceeding needs to be completed through the local court system. If required, the representative must follow those rules to properly conclude the decedent's final affairs.

In matters of probate, estate, and trust settlement, we work directly with the family's legal counsel. If no counsel has been designated, Schumpeter Consulting can assist in identifying appropriate counsel.

Our knowledge, skills and experience extend to highly specialized areas such as (but not limited to) probate, estate, and trust settlement.

Here is what Schumpeter Consulting can do for you in this area:

- Under supervision of legal counsel if one has been retained, we assist the decedent's personal estate representative through every step of estate settlement.
- Complete specialized accounting and tax work for trusts, estates, and estate plan gifting.
- Administer asset valuation processes.
- Conduct trust and estate settlement and closing procedures through a Trust Settlement Memorandum.
- Conduct probate through appropriate local (circuit) court system.

LITIGATION SUPPORT AND NOTARIAL SERVICES

Our knowledge, skills and experience extend to highly specialized areas such as (but not limited to) complex litigation support, accounting and tax compliance work for trusts, estates, or other fiduciary areas.²³

Here is what Schumpeter Consulting can do for you in this area:

- Identify current or expected civil or criminal claims or litigation at personal and business levels.
- Provide specific support in litigation or administrative law areas to include design and implementation of complex litigation plans.²⁴
- Provide full notary services in accordance with State of Virginia law.²⁵
 - Take acknowledgments.
 - Administer oaths and affirmations.
 - Certify “true copy” documents.
 - Certify affidavits and witness depositions.
 - Perform verification of facts.

²³ Under supervision of properly licensed and competent counsel.

²⁴ Federal Judicial Center. (2004). *Manual for Complex Litigation, Fourth*.

²⁵ Code of Virginia, “Notarial Powers,” §§ 32.1-272; 47.1-12; 55-118.6; 55-181.1.

OUR FEES – VALUE FOR VALUE

Schumpeter Consulting operates on the basis of value for value – our services represent value, or value-added, provided in exchange for fees agreed upon in advance of work performed. We make every effort to do more than what is expected – more than what is paid for.²⁶

Fees are based upon Company economics with a duty to guard the interests of all stakeholders. Fees are discussed collaboratively and in advance, stated as part of an agreed work plan and budget, often formalized in an engagement letter. *There is no charge for an initial consultation.*

Representative fees by key service area:²⁷

- BOOKKEEPING AND ACCOUNTING. Starting at \$95 per hour. Ongoing engagements on a flat fee arrangement are greatly preferred.
- TAX ANALYSIS AND PREPARATION. Generally ranging from \$350 to \$1,650 for personal or business tax returns, or gift or trust tax returns. Federal estate tax returns are also by flat fee, generally starting at \$3,500.
- BUSINESS ENTITY FORMATION AND LIFE CYCLE PLANNING. Starting at \$95 per hour. Business plan write-ups and ongoing engagements on a flat fee arrangement are preferred.
- TAX EXEMPT ENTITY CREATION AND COMPLIANCE. Starting at \$65 per hour. Non-stock business plan write-ups and ongoing engagements on a flat fee arrangement are preferred.
- FINANCIAL MANAGEMENT. Starting at \$95 per hour. Ongoing engagements on a flat fee arrangement are preferred.
- ESTATE AND BUSINESS SUCCESSION PLANNING. Document preparation fees are based on a separate fee schedule.
- TRUST FUNDING. Starting at \$95 per hour; generally included with Estate and Business Succession Planning services at no additional charge.
- PROBATE, ESTATE, AND TRUST SETTLEMENT. Starting at \$95 per hour; 15 hour base; minimum initial flat fee \$2,250.
- LITIGATION SUPPORT AND NOTARIAL SERVICES. Starting at \$95 per hour or flat fee for ongoing engagements. Notarial services are generally provided at no charge.

²⁶ Hill, N. (2011[1925]). *The Laws of Success*. (pp. 225-253). (City and state of publisher not provided): Vieux Publishing.

²⁷ Fees generally exclude collateral services, such as (but not limited to) government agency fees, extended travel, bulk copying, or special document handling. Professional advisors referred to clients from Schumpeter's *Independent Client Advisor Network* will quote their own independent fees and other terms of engagement, and can bill either through Schumpeter Consulting LLC or independently.

SCHUMPETER CENTER STATEMENT OF VALUES²⁸

PREAMBLE

These values express the conduct of the Schumpeter Center in all business and professional activities. As we advance toward achieving our goals, we give our undivided time and attention to the advancement of our business enterprise projects in positive response to stakeholder requirements in accordance with the Institutions of Capitalism.

CONSTRUCTIVE OUTLOOK AMONG ALL PUBLICS

1. We honor our stakeholders with positive emotional energies.
2. We esteem everyone with the highest dignity and integrity.
3. We regard teamwork as a key personal and business asset.
4. We openly congratulate each other for accomplishments.
5. We express gratitude and appreciation.
6. We maintain optimistic views that are continuously achievement-based.
7. We seek opportunities to excel.
8. We exceed stakeholder expectations.
9. We honor our agreements and fulfill our obligations on time.
10. We regard our winning attitude as a key personal and business asset.
11. We pour our minds and souls into doing our level best.
12. We expect very great things.
13. We turn fully the energies of our minds and bodies upon the work before us.
14. We comprehend the distance required to achieve great victory, but we close this distance by commanding the power of persistence.

COMMUNICATIONS

15. We value quality interpersonal communication as highly as technical skills.
16. We create and maintain strong human relationship connections and bridges through regular personal communications with all stakeholders.
17. We uphold the highest quality and integrity in communications with others despite personal boundaries and cultural differences.
18. We collaborate, confirm, and affirm ideas, information and progress by both written and verbal messaging.

²⁸ First published in Donohue, J. M. (2010). *Small Business Creation and Development*. Ruckersville, VA: Schumpeter Enterprise Institute.

EDUCATION

19. We seek knowledge and new ideas - the answers seek us.
20. We seek higher levels of thought-leadership through new thinking and original perspectives.
21. We study and strive to understand and critically assess current events in the world around us.
22. We advance the frontier of knowledge.
23. We regard knowledge as a capability and problem solving multiplier.
24. We regard our knowledge base as a key personal and business asset.
25. We are continuously learning through knowledge exchange.
26. We are constructively teachable by open-mindedness and a relaxed mental attitude.
27. We share our knowledge by being accessible to others with what we know.
28. We support knowledge before action - *Scientia pro factum*.
29. We exchange our knowledge with others through dueling smart books.
30. We advance ourselves through professional certifications where incumbent.
31. We continuously read the technical and professional literature related to our businesses.

PROBLEM SOLVING POWER

32. We uphold and expand the Institutions of Capitalism.
33. We are in business to help customers solve their problems and resolve their wants, needs and desires, and we make a respectable living from doing so.
34. We use our experiences to discover and develop what we are truly good at - our subject matter expertise - which expands our problem-solving capability and functioning.
35. We continuously improve our subject matter expertise because it is pleasurable; we are in harmony with all our tasks and our capacity to accomplish them.
36. We are influential and authoritative in focusing our subject matter expertise on problem solving capabilities.
37. We encourage highly original and novel solutions to problems - we are open to all possibilities - but we dismiss those that divert from our goals or disregard the Institutions of Capitalism.
38. We are individually unique in our problem-solving functions and capabilities resulting in multiple solutions to problems.
39. We continuously advance our own Customer Value Propositions and profit from selling respectability.
40. We are highly compensated by our customers because of the value they receive from our products and services.
41. We continuously perform and out-perform in our obligations to customers.

42. We support strong teaming and alliance relationships with our customers.
43. We are involved with our customers by being continuously interested in and concerned with their well-being and success.
44. We help our customers succeed.
45. We anticipate and prepare for customer problems before they emerge and we prepare solutions in advance.
46. We take full responsibility for our work products.
47. We are intelligently decisive.
48. We execute well-reasoned and collaborated solutions with skillful audacity.
49. We work as though every physical movement were meaningful in the advancement of our professions and client interests.
50. We continuously align our individual business strengths and technical skills in response to customer requirements.
51. We understand each customer's unspoken intent as well as his or her spoken request.
52. We understand what our customers want to achieve while honoring their schedules and budgets.
53. We regard our ability to meet and exceed customer expectations as our key business asset.
54. We know our markets and build our core businesses locally.
55. We know and honor our respective professional codes of ethics and professional responsibilities and duties.

RESPECT FOR OTHERS IN OUR WORKPLACES

56. We honor our places of work with personal dignity and decorum.
57. We strengthen the communities and families we serve.
58. We are good stewards of our own resources, those of our customers, and the environment in which we operate.
59. We promote a workplace free of substance abuse, violence and sexual harassment.

WE TOGETHER SHAPE THE FUTURE

60. We support and encourage an entrepreneurial worldview based on the Institutions of Capitalism.
61. We comprehend world events, we have a clear vision of the future in the context of world events, and we pursue our visions courageously alongside world events.
62. We recognize that shaping the future and establishing and achieving goals requires taking risks.

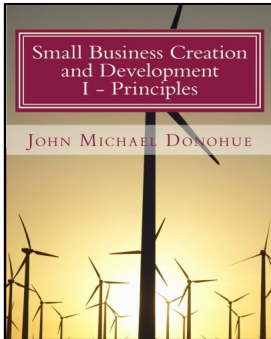
63. We see endless opportunities for our business activities to improve the quality of our lives and those of our stakeholders.

64. We regard our ability to envision and attain our destiny as a key business asset.

65. We become what we envision by acting as if the end state is attainable.

ADDITIONAL SCHUMPETER CENTER PRODUCTS

Available from Amazon.com and other retailers. Also available from Amazon as a Kindle Book.


Small Business Creation and Development
Principles and Methods for Establishing Your Small Business - Volume I - Principles

John Michael Donohue

Throughout this highly researched work, the reader takes an excursion royale through the principles and methods of small business creation and development. Results are immediate, as Donohue shows how the reader can attain an up-and-running business by the close of Chapter 2.

This is the first of two volumes in which Donohue rolls out a total business-building system beginning with a clear definition of an individual's business-building goal, recognizing the general conditions influencing business-building and specific standards that signify goal fulfillment. This is not a book for readers lacking the capacity to think or act outside cubicles of safety. Instead, the reader attains the upper limits of enlightenment in the Institutions of Capitalism leading to his or her own self-created personal industry - the goal of the book. The reader will also sense a secondary theme throughout this extraordinary volume. Especially in these times of economic uncertainty, Volume 1 and its companion methods book, Volume 2, embody a refutation of efforts by many levels of government to deliver the heart and soul of their economies into a declining Socialist spiral, characterized by individual dependence and mediocrity. These are not belief systems shared by true capitalist entrepreneurs, and Donohue lays out the best arguments for the Institutions of Capitalism that result in greater standards of living through individual small business ownership. In Volume 2, scheduled for release in 2017, Donohue unfolds a master business-building system adopting the World Bank's Development Project Cycle merged with the Baldrige Criteria for Performance Excellence, a Kaizen-approach that all business owners and managers can immediately engage to improve their small business projects. Together, Volumes 1 and 2 convey the principles and methods for creating and developing a profitable small business enterprise from simple idea.

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Capitalist Quarterly

The Schumpeter Center

CAPITALIST QUARTERLY provides a forum-of-record to advance the education and mentorship of entrepreneurs, investors and managers who create and develop small businesses. Though we are nonpartisan, we advocate free market positions and solutions that advance the quality of life. CAPITALIST QUARTERLY explores all subjects relevant to small business creation and development. Our editorial preference is for the unconventional, contrarian, evolutionary, in-depth and thoughtful viewpoints within a free market framework.

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NOTES
