

The Key Benefits Of Forming A Joint Venture

Law360, New York (January 21, 2014, 2:07 PM ET) -- In general, parties come together to form joint ventures when all involved believe that they will have greater success working cooperatively on a specific project, product or business than they would have if they each undertook the endeavor on their own. More often than not, each of the parties individually lacks all of the requisite practical knowledge, resources and/or funding for the venture's success.

Below are the key benefits of forming a joint venture:

- **Sharing Assets.** Creating a joint venture allows the participants to share their collective tangible and intangible assets in pursuit of a common goal. For example, two or more parties may collectively own the intellectual property required to develop a new product or technology, but none of the parties individually has all of the necessary IP rights to pursue the project. In another example, one party may supply the cash funding, while another party supplies real property or property rights, equipment, supplies, and/or access to other assets.
- **Sharing Critical Expertise and Experience.** By forming a joint venture, the parties can share management experience and expertise, industry knowledge, technological capabilities and any other expertise or experience necessary to the business. For instance, one party may have the knowledge and experience to develop a product and may then look for joint venture partners to contribute the funding, or one of the joint venture parties may have more experience in a particular industry than the others.
- **Sharing Costs.** Another key benefit of entering into a joint venture is sharing costs. Joint ventures often allow their participants to undertake a venture that neither could afford independently. Research and development, labor and management, distribution, supply and administrative costs as a percentage of revenues may be significantly reduced for each party relative to what they would have been had each party tried to pursue the venture on its own. In addition, economies of scale may also be reached in which per-unit costs may be reduced due to efficiencies reached at larger joint production levels.
- **Sharing Business Risk.** A joint venture enables the participants to share the business risk of creating a new product or service or entering into or expanding a business. Individually, neither party may have the risk appetite to develop the necessary assets or resources that it currently lacks, especially in light of the possibility that its new investment may not yield enough revenue to make the development costs worthwhile. Sharing resources and costs can help ease the burden of the risk.

- **Access to New Markets.** Forming a joint venture can enable the participants to access geographic or high-growth markets that they would not otherwise have access to individually. The parties may also pool their access to suppliers or customers. For example, one joint venture member may have the required intellectual property for a venture while the other has the infrastructure or distribution networks to access markets and customers. Given the size of the joint venture, the parties may also find that they have greater bargaining power in negotiating contracts for the distribution or supply contracts, or agreements for the purchase of goods, supplies and services than they would have individually.
- **Diversification.** Another key reason that parties enter into joint ventures is to diversify their own businesses. As mentioned above, a joint venture may help participants gain access to markets or businesses that they could not enter individually. Diversification helps reduce a participant's business risk across its product or service lines, and may also increase the participant's access to resources (such as superior talent) and more capital if the profits and/or assets of the joint venture grow significantly. Diversification also has the potential to improve cash flow and profitability of the co-venturers, either directly through the venture or indirectly via improvements or enhancements to their own products, services or operations.
- **Flexibility.** There are many ways to structure a joint venture, which offers co-venturers maximum flexibility in creating the entity and establishing a relationship that works for them. For example, if multiple parties are involved, an M&A transaction could prove costly and difficult to manage and would usually require one or more of the parties to cease to exist and/or cede control of their businesses. In contrast, a joint venture structure allows each party involved to undertake a new business opportunity while maintaining their respective identities and existing business operations. In another example, different structures also yield different tax and accounting treatment. If the venturers choose to form a company, they can protect their individual earnings and profits from the vicissitudes of a startup venture, provided that no one partner owns 50 percent or more of the venture and is required by applicable accounting rules to consolidate the financials of the joint venture with its own for reporting purposes. If they choose to form a partnership, they can allow the earnings, profits and losses of the joint venture to flow through partners' financial statements, which would allow the joint venture's earnings or losses to provide benefits to the partners from an income or tax perspective, so long as such earnings and profits are treated consistently among the partners. Alternatively, the venturers could also simply form a strategic alliance, which would allow them to manage their financial positions in the joint venture individually.
- **Favorable Tax Treatment.** Unincorporated joint ventures, such as general partnerships, can provide favorable tax treatment for their parties. They allow profits to flow through to co-venturers' financial statements without the double taxation that would occur, first, on a corporation's profits and, then, on the dividends paid to its shareholders. They also allow losses to flow through to co-venturers that can be used to offset income from the co-venturer's other operations. Limited liability companies can also be treated as partnerships for tax purposes and can provide the same flow through income, loss and tax benefits of general partnerships even though they are otherwise treated as separate, stand-alone entities for purposes of limiting the liability of co-venturers for the acts of the joint venture.

Rashida La Lande is a partner in the firm's corporate transactions practice in New York.

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