Brett P Swarts of Capital Gains Tax Solutions

[00:00:04] This is the Investor Connect podcast program. I'm Hall Martin and the host of the show in which we interview Angel Investors, venture capital, family offices, private equity, many other investors for early stage and growth companies. I hope you enjoy this episode.

[00:00:24] Hello, this is Hall Martin with Investor Connect today, we're here with Brett Swarts, founder and CEO of Capital Gains Tax Solutions. Capital gains tax solutions provide one to one business owner and investor guidance throughout your entire deferred sales trust process. From selling to reinvesting, it will help you outlined the options of selling or not selling and the tax consequences for each deferral strategy, including deferred sales trust opportunity zones. Ten thirty one exchanges, Delaware statutory trusts and four major trusts will teach you everything you need to know how to design a tax deferred sales trust transformational exit plan, provide DST trustee services, help you achieve proven results. Thank you for joining us. Oh, thanks for having the show. A pleasure to be here. Great, thanks. So tell me a little bit about your background. What have you been doing before this?

[00:01:09] Absolutely. I'm originally from the Bay Area in Northern California and I grew up learning the sticks and bricks of entrepreneurial business and kind of the Silicon Valley Greater East Bay. My dad building houses only rentals, and I went to college and studied real estate and studied how to actually study business. And then during college, I took an internship at a company studying real estate at a company called Marcus and Millichap. And along that journey, I learned kind of different ways to defer tax and grow wealth. But it was during that time and if you remember, during the twenty six area, everything was pretty high. But then I guess when a couple of years later, everything came crashing down. And so I was a brand new broker just trying to make it in the business. A newly married life at home. And have you been so scared? Not sure how you provide for your family or. That's where I was at. So I came out of college playing basketball, very successful on my academic and athletic journey to all of a sudden come to a grinding halt for my career. And so as a real estate broker, you're one hundred percent commission and you only get paid if you close a deal. And so I went for making just a little bit to next to none. And I had to pivot and I had to adjust. And I did what every good entrepreneur does, or maybe even a startup person who's listening right now where they they get a side hustle or side job. And so I, I started to work multiple jobs on the nights and weekends, the main places at a place called Cheesecake Factory. It happened to my wife's favorite restaurant.

[00:02:35] And so my dad would be making calls and trying to solve problems for clients on the multifamily investment front. And by night, I'd be serving cheesecake to keep the dream alive. So I did that for about a two year period of time. So I was going through some of my struggles. Guess what? Silver mine, a lot of my clients, a lot of high net worth individuals who had bought high and mostly because of the ten thirty one exchange before the market crash, taking on too much debt. And now they were fighting with banks and trying to renegotiate. And I was helping them do that. So along the journey, we had to figure out a way to, A, what happened, and B, how can we help? This would never happen again. And at that moment, about two thousand nine, a gentleman came in and speak about the strategy we're trying to talk about called the Deferred Sales Trust. And that changed everything for me. But it took a while to understand what it was and how it can apply to my clients. So the plan was to roll it out slowly, communicate, educate, grow my business along the way, and helped him escape feeling trapped by capital gains tax. Which leads us to where we are today. Fast forward over ten years and all the deals we've closed. We now train and coach people who are high net worth individuals selling a business or investment, real estate or cryptocurrency or stock or anything else like that on how to achieve a what's called a transformational exit plan so they can create and preserve more wealth. So that's a a long intro, but hopefully that makes some sense.

[00:03:55] That's great. Sound like you've had a great journey yourself and now you're willing to give back to start ups also. So what should entrepreneurs know about the capital gains itself, the tax gains that come with running a business?

[00:04:08] Absolutely. So let's start with the big demographics and then let's dive into the micro. So the big macro thing that's going on, it's according to the American Bankers Association, there's about 17 to 20 trillion dollars that'll pass in the next 20 years. And this is known as the largest wealth transfer in the history of the planet. In fact, it's by a generation called the baby boomers, and they absolutely represent approximately seventy seven million in the US alone. And every single day, about ten thousand of them are turning sixty five. So this is known as the silver tsunami. So they have a massive amount of wealth tied into highly appreciated assets such as businesses, investment, real estate, primary homes, stock, and they feel trapped to sell because of what a 30 to 50 percent would be wiped out by capital gains tax and depreciation recapture. So a lot of them won't sell or don't know how to sell without getting hammered. When they sell, along with other startups that we work with, they have multiple partners and moving parts and they want to launch a new venture. But again, they don't want to get hit with a big tax. So this is where we come in and we consult and help people understand, a, what their liability may be, b, what their options may be, and then see how to hire guides. And a dream team is what we like to call it to help. You make the best, best decision when you exit that business or real estate.

[00:05:28] So how can they manage those gains when they sell their business? What exactly do they need to do?

[00:05:33] Great question. So the deferred sales trust is really flexible. And this and this is part of why I think it's transformational versus a lot of other strategies, which I call our transactional. So, for example, and a 10 30 one exchange, it only works for investment. Real estate doesn't even work for our business. So we just did a deal recently in Alabama for a business owner who had two partners and they were going to buy him out. So he sold his position for about two and a half million and was able to defer about six hundred thousand dollars of tax and see he was ready to go into his next venture, which is his next company, which was going to be real estate development with a partner and friend of his. And so instead of paying that tax, he's able to defer it all and then use those funds. I like to call it like the go fund yourself. Right. You can get VC money. You can get angel money. We'll talk about in a minute. You can get a bank money, but you can also fund yourself with tax deferred money. A lot of people just don't know about this using a deferred sales trust versus a temporary one exchange, which only applies to investment real estate. And you have to buy like kind of investment real estate in a short period of time.

[00:06:35] So that's more like transactional. Same thing with a charitable remainder trust. Right. And we love charity and people want to give away. But a lot of it requires all of it to be given away or a big percentage of it. And it's it's irrevocable, gone forever once once you pass, whereas the deferred sales trust, it's really seamless. We to call like the Netflix way of doing things versus the old blockbuster. You can invest in whatever you like, whether it be stocks, bonds or mutual funds. You can put it into a new business venture of your with yourself or with partners. You can do ground up investment, real estate. You can buy existing investment, real estate. So it gives you a chance to diversify your wealth. OK, so there's of course, there's some rules we have to follow and some guidelines we have to watch out for. We don't wanna take on too much risk. This trust, by the way, has been developed twenty five years ago, thousands of Close's billions under management. And so we do want to stay within the guardrails of what's been created with the tax attorneys who are my business partners and the financial adviser who manages the funds. But essentially, it's very flexible.

[00:07:31] That's great. So is the Delaware statutory trust. Does the entity have to be a Delaware C Corporation or can it be any entity?

[00:07:38] Great questions. First, qualify what the Delaware statutory trust is in a deferred sales trust. So just to just to clarify, we're not the same thing. So a Delaware statutory trust is just a form of a ten thirty one exchange. So where you can trade like investment, real estate and you can move it into a Delaware structure, I like to call it a dirty ten thirty one. So you're going to be restricted to those types of things, whereas the deferred sales trust, you can you can sell an LLC in S corporate C corp. You can sell a partnership individual. It can be again, highly appreciated. Public stock, private stock. It could be cryptocurrency, it could be a primary home. It's very flexible. What can go into it. So I'm not sure that answers your question. Exactly. Or any clarification on that?

[00:08:19] No answers my question. So on a deferred sales trust and basically deferring my capital gains on this business and moving it to the next business or the next activity I may be doing, is that how that works?

[00:08:31] Yes, that's the full outcome. So let's walk through an example, because I always like to give real life examples. So we just closed on a eight point three million dollar property in the Silicon Valley. It was a high end primary home for an individual who owned it for a long time. And he was faced with a big, big capital gains tax. So he's able to sell that and then pay off the debt and then move the funds, the equity, the proceeds into the trust. And now they can go into stocks, bonds, mutual funds, and they can go into real estate. As long as this investment, real estate can't be a primary home and it can go into another business venture. Now, there's some rules to that. Of that, 80 percent can be go into like a business venture of your own or with partners. The other 20 percent need to stay liquid and investment grade securities type of instruments to not put too much pressure on the financial aspect of the trust. So every situation is customized based upon the client's needs, wants and risk tolerance. And that's what we do. We help you to build that out and work with you along the way. So is that answering the question?

[00:09:33] Oh, yeah, that's that's great. That's I hear that a lot with startups that are running a company and then they want to sell the business and now they've got all these taxes that they have to pay on it and they're looking for a way out and have been familiar with the ten thirty one exchanges with my contacts in the real estate industry and wondered if there was a similar thing we could do with the startups itself. So it sound like there's similar mechanisms, although they're not exactly the same.

[00:09:56] Yeah, you got it. And you really hit on the head. Right. So it's it's a similar outcome. It's just a different path. And see if, for example, you could sell highly appreciated cryptocurrency or a business. Right. And you can at ten thirty one then into another business. It's just there's no option there. But you can deferred sales, trust, park the funds there and then use those funds to invest, co-invest with you on a what's called a JV partnership, the brand new LLC to start a new company. So I can honestly say it's like the go fund yourself, so instead of selling, paying all the tax sell and move it into the trust and use the funds in the trust to fund your next business venture. So same outcome, all tax deferred. Right. Except the 10 three one does not allow you to do that for just about every asset except for a 10 cent for an investment real estate. But even then, you're just buying another piece of investment, real estate. Oh, by the way, you're probably paying a pretty high price because the market is so high and we call that the shotgun wedding. Right. I get engaged in forty five days, get married in one hundred and eighty and a lot of us don't make great decisions when we're doing that on Rush. And so the deferred sales stress, there's no timing restrictions, meaning you can park the funds and wait.

[00:11:02] In fact one of the best deal stores because the Monday morning quarterback deal out of Minnesota, two thousand six, this gentleman played it perfectly. Right. And he sold at the peak and he sold about a 20 million dollar asset. This is 06. And he's looking around saying, I think this thing's a little bit shaky here. I have a feeling something might change here in the near future. And sure enough, it did in the 08 crash. And so he sold high. He did not do a ten thirty one exchange for the first time using the deferred sales trust park. The funds they're put into a conservative liquid diversified investment grade securities. And now the stock market did take a big hit. But we have some ways to be conservative there. And and he was conservative. Five years later, that property was sold, was foreclosed on, and he bought it back from the bank. The bank called it back and said, hey, why don't you want to sell it back to you? And he says, well, what's the cost? And he goes, Well, we just foreclosed on it from the other guy who bought it from you. How about 40 percent less than you paid for it? And so he said, sure. So he used the funds for the Deferred Sales Trust, made a deal with the bank. So he bought low and he sold high. He sold high and low five years later.

[00:12:07] And that's the transformation that you can have with the deferred sales trust. So what's your advice for startups who are just now launching their business? What do you tell them to do to get ready? You plan and you hire and find your dream team before you exit. Right. A lot of the startups, a lot of the founders of companies that I work with, they're great at what they do. And part of why they're going to watch the news, because they're focusing like a laser on what they do. Right. And they're not tax professionals or even investment or multifamily or commercial real estate professionals by the fact that they're so successful. And the one thing it can maybe mean they're not as strong in the other. Now, some of put we have the crossover. I have I have a client of mine. He's sold successful startup in Silicon Valley for fifty million dollars and he owns over one hundred million dollars worth of investment real estate. So not to say you can't do both, but the key is he leans on experts and professionals, brokers, tax professionals and a team to help him. In other words, he builds the dream team, helping create preserving wealth. So as you should already be starting to build your dream team now be should be clarifying what your exit might be and what the values might be. Of course, that means C make sure you know what the liability is going to be.

[00:13:16] The key thing why, though, if the deferred sales trust in most every year of the strategy you're working with, you need to set it up before close of escrow. So the worst thing you can do is to be in a contract and be ready to close in a couple of days. And then you're trying to scramble to figure, guess what, if you don't set it up prior to close of escrow on ninety nine percent of our deals, especially if their business deals one hundred percent of our deals, then you're going to have to pay the tax because it's called constructive receipt. So the key is pre plan, get a plan set, set up what you want to do. By the way, we work on a conditional basis, which is also different than most professionals. We don't charge anything less. And if we deliver results at close of escrow and the deal actually closes, so that takes the pressure off. So hopefully that answers the question all. So if I'm selling a business June 1st of this year, what time should I come see you? How far in advance should I be talking about this? Yeah, great question. It's different for different people. Right. Especially getting to know this for the first time. And it could be a twenty like we just did a five million dollar deal two weeks ago and we met the client 90 days before that.

[00:14:16] Right now, they had a they had a relationship with a business professional who made the introductions. So they had a good, good rapport going there. The business professional had to work with us so that one close to 90 days, there were over twenty million. We moved the funds outside of their taxable estate. It was a really nice deal, Win-Win for everybody. So that's about 90 days. But if you're hearing this right now and you're considering selling the next three, six, 12 months, you should be talking to me in the next week, at least get the introduction start to go through our online academy, our portal. Those are no cost for high net worth individuals who are considering selling, selling something. And now you can get that education. And that's the key. You want to have all the pressure off of you and not being actually in escrow while you're making your exit plan decision. Right. The worst is when you're caught up in the emotions. And we've come with deals like this where people have worked five, ten, fifteen years for this dream and they're selling, let's say, a ten million dollar asset and they're in the last 30 days and then they're planning. But the emotional amount of courage to overcome not only selling their their asset, but also to do a new tax deferral strategy with somebody who they never met before. Can be daunting, right, and so we always say this to separate those emotions, so separate the emotion of selling the asset, selling the business with the exit plan.

[00:15:31] Do your due diligence first on the exit plan. Right. Start at the end in mind. What? Stephen Covey. Right. What is that? Make sure you check that box. You're good to go and then make sure you're focused like a laser on maximizing revenues. Right. Transferring ownership to the next group. And so you're having to cross those twos over if that makes sense. All that makes sense. Well, in the last two minutes that we have here, what else should we cover that we haven't yet? You should cover just the importance of diversification, liquidity and getting out of debt right now. I think we're at an all time high on so many levels and for so many reasons.

It's a perfect storm on so many things to potentially make this 12 call it a 13 year bull market run. And guess what? New Biden administration, new higher taxes are coming in. So we think it's a great time to sell, great time to sell, defer your tax, get on the sidelines, diversify, get some liquidity, pay off your debt. Right. Versus staying in something. I mean, I think if we work right, which is I don't know if you've done a show on that. Imagine you have just folks who had so much in that. Right. And to see it all just kind of blow up.

[00:16:38] So if you can sell something that's highly appreciated. We've done Netflix stock, right. We're doing even some cryptocurrency deals now and capture that value. Diversify. Now's a great time to do that. So I would just I would just leave your listeners with with the importance of timing. That's great. So how best for listeners to get back in touch with you? Great question. So the best place to go to is Capital Gains Tax Solutions dot com. You can also search that on YouTube and iTunes. We have a podcast. And if you're a business professional listening, right, you're an angel investor. You are a commercial real estate syndicator. You are someone who's who's doing startups and looking to raise capital. You can go to expert tech secrets, dot com. And what we do is we coach people on how to help others use the deferred sales trust to unlock the capital to fuel their next business or real estate venture. In fact, we work with a group called Praksis Capital, just for example, and they manage and own over five billion dollars worth of multifamily investment real estate throughout the United States. And they're finding for the first time in their 30 year career that, hey, we can use this to unlock the capital from other sources to fund these new new deals for us. So it's a great way to attract and unlock that capital as a professional.

[00:17:49] That's great. I want to thank you for taking time to join us today and sharing your experience and your perspective with the audience and have you back for a follow up soon.

[00:17:58] Thanks. It's been my pleasure and hope to come back soon to Investor Connect helps investors interested in startup funding. In this podcast series, experienced investors share their experience and advice. You can learn more at Investor Connect, Doug.

[00:18:19] Alti Martin is the director of Envestra Connect, which is a fiber one three nonprofit dedicated to the education of investors for early stage funding. All opinions expressed by Hall and podcast guests are solely their own opinions and do not reflect the opinions of investors.

Connect. This podcast is for informational purposes only. Should not be relied upon for the basis of investment decisions.