

Introduction

Ending a marriage or common-law relationship involves a lot of big decisions. Many of those decisions are about money. Those decisions become more complex if one of you is a business owner. Agreeing on how to divide your shared assets can be a major source of worry, confusion and conflict. If personal finances have become intertwined with business operations, your family may enjoy a lifestyle that does not fully reflect the income reported for personal tax purposes. To make the most informed decisions for your family's future, you need to know where you stand now and what your options are.

In this pamphlet you'll find basic information on:

- Valuing your business
- Guideline income
- Financial disclosure and privacy

This pamphlet is adapted from an article, "Financial matters in the separation and divorce of business owners." You can find the complete article on my website www.alcpvaluations.com.



Agnes Leung

I have been practicing in the areas of business valuations and financial dispute resolution since 1999. I am a:

- Chartered Professional Accountant (CPA) who can guide you through accounting and taxation issues;
- Chartered Business Valuator (CBV) who provides expert evidence to help people resolve disputes;
- Registered Collaborative Professional (RCP) who is trained as a financial neutral to help people resolve financial disputes without going to court.

As a financial expert, I have been retained in different capacities: by plaintiff counsel, defence counsel or jointly retained by both parties. I have the skills and competencies to help whether you are going to court or using the collaborative process. I can serve you in Chinese and English.

I serve as a board member and treasurer of the Association of Collaborative Family Professionals (Edmonton). Please contact me with your financial questions.

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Financial Matters for Divorcing Business Owners



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Valuing your business

Matrimonial Property Division

Your family business is often a significant asset and needs to be valued for a matrimonial property division. Since a number of complex issues may need to be addressed, you should retain a specialized professional such as a Chartered Professional Accountant who is also a Chartered Business Valuator (CBV). This specialist will help you determine the value of your business and/or your interest in a joint venture or partnership. The business may need to be valued at the date of marriage (if the business existed then), the date of separation, at the court date (if some time has lapsed since separation) and/or the date at which property will be divided – or some other combination of dates.

Valuation Approaches

During divorce, fair market value is used to determine the value of your business assets. Different approaches are used for different kinds of businesses. Whether you're a sole proprietor in an unincorporated business, hold shares or stock options in a company, or are part of a joint venture or partnership, your business asset needs to be valued. A holding company that holds passive investments such as rental property or a portfolio of stocks and bonds would typically be valued based on the underlying value of those assets, and potential tax liability would be calculated at the valuation date. A company that is a going concern, providing services and/or products, would typically be valued based on its current and potential cash flow.

Guideline income

Non-taxable benefits enjoyed

Your household may enjoy a lifestyle that is partially supplemented by non-taxable benefits. Some examples of these non-taxable benefits are expenses paid by the company – such as cell phone or automobile fuel, insurance and repairs – that would ordinarily be incurred personally by a business owner, but are paid by the business instead. If this person pays child or spousal support, such benefits are not reflected on their personal income tax return as they are non-taxable.

The rules

The Federal Child Support Guidelines provide guidance as to how income for child support purposes is to be determined. However, some sections of the Guidelines that are not entirely black and white require experience and expertise to be properly interpreted. Since these determinations of income can be significant and the rules are complex, you should seek professional advice so you can make an informed decision on guideline income for child or spousal support purposes.



Financial Disclosure and Privacy

As your financial expert I can help you and your lawyer identify key documents for the business valuation and guideline income determination. It is best to do this as soon as possible after separation as it takes time to gather documents and determine exemptions. The more time has elapsed, the more difficult it will be to gather documents.

Self-employed spouses are required to provide financial statements for their business for the most recent three taxation years, regardless of whether the business is a sole proprietorship, corporation or partnership. Recent case law has increased the level of detail that business owners must disclose.

If you are concerned about privacy, consider choosing Collaborative Divorce. In this process parties sign a binding agreement to settle their disputes without going to court. This prevents confidential information about business strategies and operations from being available to the public or competitors. In Collaborative Divorce, couples hire me as a financial neutral to assist them in this process. For more information about Collaborative Divorce visit the Collaborative Divorce Association Alberta website at www.collaborativepractice.ca. or read my article at <https://alcpvaluations.com/articles>.