

Business Valuation and Your Divorce Settlement

By October 26, 2017

Divorce cases involve the division of a wide range of assets. These include real estate property, stock assets, automobiles, and other items of significant value.

For cases in which one or both spouses have a business interest, the valuation of that business and its division may be required. But this can be a complex, lengthy, and costly process.

Your company may be the primary asset involved in your divorce settlement. Having the right information required to complete its valuation and the legal resources to negotiate a fair divorce settlement will protect your long-term financial wellbeing.

Business Ownership in Marriage

Many married couples create businesses during their marriage. This can be a shared business or one created by one of the spouses. It can include a professional practice, L.L.C., corporation, or partnership.

If the business was created or experienced increases in its value during the marriage, it will most likely be considered a marital asset. This means that some or all of the value could be subject to division by the courts.

Working with an experienced family law attorney who understands business valuation is the first step in protecting your financial interests. Your attorney can secure a valuation expert to determine its true value.

In Georgia, the courts determine what assets are considered “marital” and which ones are “separate” depending on a wide range of factors. All marital assets will be divided through the equitable distribution process.

How Courts Classify Business Assets

Your business will be classified as marital property if it was acquired during the marriage regardless of how it is titled.

If instead, your business was under the ownership of one party prior to the marriage, the business will be deemed separate property and won't be subject to equitable distribution.

The dates of the marriage and the acquisition of the business are identified to determine how they'll be classified. Also, the source of the financial resources used to acquire the business will be needed during this process.

There are issues that arise when valuing a business. A spouse may be entitled to retain his or her share. But there may be a significant number of items that must be accounted for in order to determine an accurate value for that share.

Some spouses and their attorneys may try to understate or exaggerate the value of a business interest in order to satisfy their own best interests. The challenges of valuing a business only increase with larger assets.

Protecting Your Business During the Valuation Process

Your family law attorney can guide you through the valuation and distribution of business assets in a divorce.

The legal resources you'll need will depend on the circumstances related to your case as well as the method used in the valuation process.

Subtracting your liabilities from your assets is the first method that can be used to determine the value of your business.

It may also be valued by comparing it to businesses that are similar and their market value. But in some cases, it may be difficult to find other businesses that are similar enough to produce an accurate valuation.

The most common method used involves the evaluation of revenue history and projected cash flow to determine how much a business interest is worth.

Your attorney can help you understand how each valuation strategy can impact your assets and help you choose the right expert to value your business. Cases that involve the valuation of a business can add to the total cost of your divorce case due to the additional costs of hiring an expert and gathering financial records.

Gathering and presenting financial records can take time, and businesses are legally entitled to deny access to financial records. This can require additional legal actions making your case even more complex.

Determining an accurate value for your business affects your divorce settlement. By protecting your rights and assets under Georgia state law, you protect your existing and future business interests.