

Dividing Business Assets When Both Spouses Own the Business

By April 23, 2018

Protecting your personal and business assets is critical to the success of your divorce. But not all assets are treated equally by the family law courts. Assets are subject to equitable distribution depending on many factors.

Understanding these factors and the process of valuating and dividing assets helps you secure the success of your business and your financial well being for the future.

Business Challenges in Divorce

There are unique challenges that business owners face in a divorce when both spouses own the business. Like personal assets, those related to your business may need to be divided according to existing agreements or decisions made by the courts.

Equitable distribution consists of determining the time and manner in which assets were acquired in order to divide them between both parties.

Assets are classified as “marital” or “separate”, and this determines how they’ll be handled in a divorce.

The value of business assets must be established prior to their division and distribution. Determining a fair market value of a business can be one of the biggest challenges for spouses.

The difficulty in valuation comes from the presence of tangible and intangible assets related to the business. These include financial accounts, inventory, equipment, business goodwill, intellectual property, and others.

Asset Classification and Business Valuation

Marital property includes those assets acquired during the marriage while separate property consists of assets that were obtained before the marriage. But classifying business assets isn’t always easy.

Separate assets may be commingled at some point during the marriage. For example, one spouse may contribute funds acquired before the marriage into a jointly owned business.

Working with an experienced family law attorney is the best way to determine the risk of your separate assets when dividing a business in a divorce.

You'll need to consider when the business was created or acquired as well as the source of assets that were used to build the business.

All contributions (monetary and non-monetary) must be considered when protecting your business assets. Overlooking any of these aspects can cause you to lose a significant share of your assets.

You need to understand the valuation process to ensure that you determine a fair market value for your business.

The Legal and Financial Resources That Protect Your Business in Divorce

Dividing a business when both spouses own the business can be easy if both parties agree on its value and the manner in which it should be divided. But this isn't always the case.

Business owners need to maintain accurate records to protect their assets in a divorce and keep personal and business finances separate whenever possible.

Draining marital funds to build a business can be a costly mistake. Your spouse may argue that he or she is entitled to a larger share of the assets as a result of your use of marital funds for business purposes.

The role that each spouse plays in the business influences the court's decision on how assets will be divided. The spouse who played a larger role in the business or has been involved for longer may be granted a larger share of the business.

You may need to forfeit other personal assets in order to retain ownership of the business in your divorce case. Your attorney will help you determine the best strategy for your needs.

You might also want to challenge a valuation if you don't agree with the market value that's been established. Having the right legal resources helps you make these and other important decisions.

Dividing a business when both spouses own the business requires you to take the steps necessary to protect all of your assets.

Understanding the process of valuing and dividing business assets lets you implement the best legal strategy and prevent any disruptions to your business operations or its bottom line.