

Why Have a Business Valued?

Most business owners are reactive when it comes to having their businesses valued. But it sometimes pays to be proactive. Some valuations are necessities, such as for determining the value of the business interest in an estate. Others are obtained for more elective reasons but are helpful to business owners nevertheless.

It is a good idea to review these common valuation scenarios, so you can identify when it's time to obtain your own valuation. Below are some of the primary reasons to have your business or a business interest valued.

Valuations for Tax Purposes

Estates. You might need a business valuation not only to file an estate tax return but also to provide guidance to the personal representative to fulfill the terms of the decedent's will.

Gifts. As long as the federal (and some state) estate tax remains in some form, it's likely that effecting a gift will require the valuation of a business or a business interest.

Buy-Sell Agreements. These agreements can serve tax or business purposes. If a sale will involve related parties, a valuation might be necessary to insure a proper value for estate and gift tax purposes. (See the right-hand box for more information.)

Conversion of a C corporation to an S Corporation. A valuation is required to determine the amount of gain that potentially might be recognized on the disposition of property by an S Corporation, which was formerly a C Corporation. If this valuation is not done contemporaneously with the S election, the business could have difficulty defending a subsequent IRS challenge to a potential "built-in capital gain."

Sales. During periods when capital gains tax rates are significantly lower than ordinary income tax rates, buyers and sellers may be at odds as to whether a sale should include stock or just certain assets. A valuation can also be used to allocate of the purchase price for tax and accounting purposes.

Employee Stock Ownership Plan (ESOP). An ESOP is a qualified defined contribution retirement plan that invests in employer stock. Payments for the stock and for repayment of any bank loans used to purchase the stock come from employer contributions to the plan, which are deductible by the employer. A valuation must be performed annually for an ESOP. This valuation determines the price per share for the beneficiaries of the ESOP plan. It is a very important valuation, because the ESOP trustees may be held personally liable if a beneficiary receives less than the fair market value of the stock.

Charitable Contributions. Stock in a closely held corporation is sometimes gifted to a charity. In order for the donor to obtain a charitable income tax deduction, an independent valuation must be performed within 60 days (before or after) the date of the gift to the charity.



Buy-Sell Agreements Can Achieve Non-Tax Objectives

Buy-sell agreements offer more than just tax benefits. Other ways business owners benefit from implementing a viable buy-sell agreement include:

- Ensuring a smooth, orderly transfer of a business interest upon the owner's death, disability, or retirement.
- Preventing sales to outsiders or litigation-mandated transfers, such as in divorce or bankruptcy proceedings.
- Creating a market for the interest of a transferring owner.
- Providing a mechanism to fund purchases and pay estate obligations.
- Inducing a key employee to stay with the business.
- Determining the amount of insurance necessary to fund the buy-out of an owner.

Valuations for Legal Purposes

Minority Shareholder Dissent Lawsuits. Most, if not all, states have a dissenter's rights statute that allows a minority shareholder to object to a merger and potentially have his or her stock paid out in cash. These same statutes often allow a minority shareholder to sue against oppression. In both instances, a valuation can be used to determine the value of the minority owner's shares.

Divorce Property Settlements. When a private business owner gets divorced, a valuation may be required to divide the marital estate, whether by agreement of the parties or by a judge through a trial. Often both sides obtain separate valuations, but there's also a movement toward collaborative divorces in which the parties agree to hire a single valuation analyst.

Litigation. Other legal situations that might necessitate a business valuation include:

- Bankruptcy proceedings,
- Contract disputes,
- Damages litigation, and
- Estate (non-tax) litigation.

This is but a partial list of potential reasons to have your business valued. In each of these instances, it's important to have the business valued by a credentialed valuation professional. Contact us at (702) 870-8258 for a consultation to determine if a business valuation is right for your situation.

Gryphon Valuation Consultants is a full-service professional business appraisal firm offering a broad range of valuation and litigation consulting services. If we can serve your valuation needs, or if you have a question about our services, please contact us at 702-870-8258 or visit us on the web at www.BizVals.com. Gryphon is an independent member of the [American Business Appraisers National Network](#).

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