

SMALL BUSINESS VALUATION RESOURCE

2018



This resource is designed to assist a participant in a Family Law matter, whether a legal practitioner, represented party or self-represented litigant, determine when a small business should be valued. **Not all businesses need to be valued**, and both time and costs can be saved if a practical approach is taken. If the business profit provides no more than a wage to the owner, it is unlikely that it should be valued (as long as the tangible assets and liabilities are properly disclosed).

The following documents should always be sought/provided where a business is conducted by one of the parties:

- (i) Latest tax return relating to the business entity, (preferably the lodged, final signed return), including supporting schedules (particularly the depreciation schedule).

Note: If the subject business is operated by the Husband/Wife as a Sole Trader, financial statements may not exist, and the only available information may be the income and expense schedule (named Business Schedule in tax return) attached to the owner operator's personal income tax return.

- (ii) Latest available financial statements, if prepared, including a profit and loss statement and balance sheet.

The following indicators will assist in determining whether a valuation should be obtained:

DOCUMENT	ASSESSMENT INDICATOR	RETAIN EXPERT BUSINESS VALUER?
Financial statements Profit & loss account	<ul style="list-style-type: none"> • Turnover/sales income – is it low (less than \$200,000)? • Profit before tax – is it low (less than \$50,000), or are losses incurred? • Is there a salary/wage expense for the owner/s of the business? <i>If not, the adjustment for commercial wages may result in a net loss</i> • Is there a rent expense for the business premises? <i>If not, the adjustment for commercial rent may result in a net loss</i> 	<p>These issues indicate that there may not be any goodwill value in the business and any value would likely be referable to net assets of the business</p> <p>There may not any utility in retaining an expert if the balance sheet properly discloses all assets and liabilities</p> <p><i>However, continue assessment</i></p>
Financial statements Balance sheet	<ul style="list-style-type: none"> • Is there plant and equipment (machinery/tools/vehicles) used in the business with a low written down value? <i>Depreciation schedule attached to tax return should identify items, date of original purchase and cost</i> • Is there stock or work in progress recognised as an asset? <i>If not, and the business is known to manufacture goods or provide professional, or other ongoing, services then the assets may be understated</i> • Are there unreasonably large and increasing liabilities to creditors, employees, the tax office and financiers? <i>If so, this may indicate insolvency issues</i> • Do liabilities exceed assets? <i>If so, this may indicate insolvency issues</i> 	<p>Retention of an independent plant and equipment valuer may be necessary, but not necessarily a business valuer</p> <p>Retention of a business valuer, or relevant specialist valuer, may be necessary</p> <p>These issues indicate that there is likely no business value, but independent expert accounting advice may be necessary to establish net liabilities for which the owner may be responsible and could impact the marital property pool</p>

DOCUMENT	ASSESSMENT INDICATOR	RETAIN EXPERT BUSINESS VALUER?
Personal income tax return (sole trader business)	The supporting 'Business Schedule' sets out sales income and expenses. Net profit equates to the individual's earnings. Is the net profit low? <i>If so, how does it compare to a commercial wage for the 'job' undertaken by the owner?</i>	If the business net income/net profit is less than a commercial wage for the subject job, there is likely no business value and no utility in retaining an expert business valuer <i>However, continue assessment</i>
Personal income tax return (sole trader business)	The supporting 'Business Schedule' should include brief information showing 'values' of assets and liabilities. <i>A word of caution - this data is often incomplete or inaccurate, and additional information may be required</i>	Depending on the nature of the sole trader business and consideration of the types of physical assets it requires to operate, it may be necessary to retain an appropriate physical asset valuer if the parties are unable to agree on the value of assets. A business valuation may not be required if agreement can be reached as to the value of the physical assets

Delbridge Forensic Accounting can assist with an assessment as to the utility and cost benefit of undertaking a formal valuation if the parties are having difficulty in reaching agreement on this issue.

Important points for self-represented litigants if the engagement of the expert is to be on a joint basis:

1. The self-represented litigant must not correspond, or in any way communicate with, the expert without including the lawyer for the other party.
2. The self-represented litigant must not seek advice from, or give instructions to, the expert (other than by way of written joint instruction).
3. Any documents, or responses to queries raised, provided by the self-represented litigant to the expert must be sent at the same time to the other party's legal representative.
4. Should a single expert be appointed and a formal valuation report provided, the parties have only 21 days from the date of provision of the report to raise questions for the valuer.

Disclaimer: This resource has been prepared to assist practitioners and litigants generally and does not constitute advice by Delbridge Forensic Accounting.



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