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A QUESTION OF VALUE

In Divorce Valuations, should a discount be taken for Capital Gains taxes?

Since divorce valuation generally does not contemplate a sale on which the seller will be subject to capital gains taxes, there should be no reduction for capital gains taxes. If business continues in operation under the ownership and control of the current owner, not only will there be no capital gains taxes, but the value of the business must generally be calculated at the investment value in the hands of the current owner. The investment value in the hands of the current owner rarely considers discounts for marketability or minority interest.

Of course, there are some exceptions. If there is a contemplated sale, or a court-ordered sale to a third party, a reduction for various discounts and capital gains taxes may be appropriate.

EACH SITUATION IS DIFFERENT. CONSULT A CERTIFIED VALUATION ANALYST FOR ANSWERS. GIVE US A CALL IF YOU'D LIKE HELP.

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A QUESTION OF VALUE

What is the **Capitalization of Earnings Method** and when should it be used?

EXTREME CAUTION SHOULD BE USED WHEN ATTEMPTING TO USE THIS METHOD. APPLYING IT TO THE WRONG "TYPE" OF EARNINGS WILL SPELL DISASTER IN THE DIVORCE VALUATION. GIVE US A CALL IF YOU'D LIKE HELP.

In its simplest form, the Capitalization of Earnings Method converts an expected income level into value by dividing income by a capitalization rate. This method has the following characteristics:

1. Often used to value large companies which are assumed to continue in existence in perpetuity.
2. It does not separately consider the value of operating assets.
3. It assumes all operating assets will be replaced through a deduction for depreciation which is used in determining the earning capacity of the business.
4. It assumes that all value of the business is found solely in its earnings.

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A QUESTION OF VALUE

For Estate Planning: what "discounts" should your clients take advantage of when gifting a percentage of their business?

A CERTIFIED VALUATION ANALYST CAN ASSIST YOUR CLIENTS IN MAKING VALUATION DECISIONS. GIVE US A CALL IF YOU'D LIKE HELP.

Generally there are two discounts considered in the valuation of a closely held business: 1) Marketability and 2) Minority Interest. The marketability discount will apply in many valuation situations, whereas the minority discount will only apply when the interest being valued is a minority interest. The market discount is generally applied before the minority interest discount, because the marketability discount will apply whether or not the interest is a control or noncontrol value. The valuation conclusion is made only after the marketability discount. However, the two discounts are not unrelated. In fact, a marketability discount might be higher because the valued interest is a minority interest. While the two discounts should be applied separately, they should be considered together.

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A QUESTION OF VALUE

What considerations should be made in drafting buy-sell agreements?

THE BUSINESS VALUATION FORMULA CAN BE DIFFERENT FOR EACH BUSINESS, DEPENDING ON THE INDUSTRY, RISKS, AND CASE CIRCUMSTANCES.

Drafting Buy-Sell Agreements requires that special consideration be given to a number of special rules that affect valuations for estate and gift tax purposes.

For example, options to acquire property at less than FMV and restrictions on the right to sell property are general disregarded in determining value.

An independent valuation, or the assistance of a valuator in deriving a formula approximating FMV at the date of the agreement helps insure the proper tax result of the Buy-Sell agreement.

Buy-Sell Agreements also have numerous other non-tax uses, all of which can be enhanced by a proper valuation formula.

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A QUESTION OF VALUE

Is the "capitalization of excess earnings method" reasonable for determining goodwill in divorce valuation?

EACH SITUATION IS DIFFERENT. CONSULT A CERTIFIED VALUATION ANALYST FOR ANSWERS. GIVE US A CALL IF YOU'D LIKE HELP.

In divorce valuations, no sale exists to measure the price paid for the business, so a residual method is not appropriate when parties with adverse economic interests cannot agree.

Many times, the most reasonable method for assigning goodwill value is the "Capitalization of Excess Earnings Method."

This method may be preferred because it measures both property and historic profits.

Extreme care must be taken to "normalize" the historic financial statements, determine risk factors, and determine the industry internal rate of return before attempting the "Excess Earnings" Method.

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A QUESTION OF VALUE

Are business valuations needed for gift and estate tax purposes?

UPON IRS CHALLENGE, A PROFESSIONAL VALUATION PROVIDES STRONG EVIDENCE OF VALUE. GIVE US A CALL IF YOU'D LIKE HELP.

Yes! Business valuations are a must for estate and gift tax purposes. Estate valuation principles relating to business interests are in Regs. 20-2031-2 (f) and 20-2031-3. Gift tax valuation principles relating to gifts and bargain sales of a business interest are in Reg. 25.2512.3. Valuations for estate tax purposes are critical because the valuation determines the extent of federal estate taxes and tax basis of the business interest for the beneficiaries of the estate. Court cases have emphasized the need for contemporaneous valuations before filing gift and estate tax returns! These same cases stress the need for having a valuator with experience, training, and credentials. Upon IRS challenge, a professional valuation provides strong evidence of value.

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A QUESTION OF VALUE

What is Business Goodwill?

A CERTIFIED VALUATION ANALYST IS TRAINED TO ANALYZE ALL RELEVANT FACTS IN VALUING GOODWILL. GIVE US A CALL FOR HELP.

Location is only one example of why an ongoing business is worth more than the sum total of its property. Other elements might include reputation for good products and service, established customers, profitable history, reliable workforce, etc.

Tax courts have held that goodwill represents the price paid for a business in excess of the value of tangible assets.

But in some cases, determining the value of goodwill is not cut and dried. For example, in divorce, gift tax, estate tax, and certain casualty loss cases, great differences of opinion will exist as to the value of goodwill. A Certified Valuation Analyst is trained to analyze all relevant facts in valuing goodwill.

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A QUESTION OF VALUE

What are the ten most common errors found in valuation reports?

CAN YOUR CLIENTS AFFORD TO HAVE ERRORS IN THEIR VALUATION REPORTS? IF YOU NEED PROFESSIONAL HELP, GIVE US A CALL.

1. Failure to define purpose and standard of value
2. Failure to discuss company background, industry, market, competition and economic environment
3. Inadequate financial analysis
4. Mathematical errors
5. Use of formulas with no explanation
6. Failure to define earnings
7. Inconsistent application of discount or capitalization rates
8. Leaps of faith regarding rates, premiums, discounts
9. Improper use of comparable companies
10. Lack of disclosure of information sources

A QUESTION OF VALUE

Divorce Valuation: Should Discounts for loss of a key person be considered?

CONTACT A CERTIFIED VALUATION ANALYST FOR THE RIGHT ANSWERS. GIVE US A CALL IF YOU'D LIKE PROFESSIONAL HELP.

In making a divorce valuation, it is generally not appropriate to apply a discount for the loss of a key person if there will be no change in management and no key people will be leaving the company.

The divorce value is generally measured in the hands of the current owner for purposes of valuing the business to the marital community. If both spouses will be leaving the business, a discount for the loss of a key person may be appropriate.

The valuation analyst should ensure that if there is the loss of a key person, or significant change in management, that an appropriate discount is applied.

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A QUESTION OF VALUE

What are some elements of a well-written valuation analysis?

1. Limiting conditions
2. Purpose of valuation
3. Summary of findings of value
4. Review of key valuation issues
5. Qualifications and experience of the valuator
6. Background and history of the company
7. Management of the company
8. Ownership of the company
9. Economic and industrial outlook, competitive environment
10. Financial condition of the company
11. Overview of valuation methods considered
12. Development of cap and discounts rates
13. Control vs. minority issues
14. Reconciliation of findings
15. Adjustments to values
16. Signed transmittal letter assuring independence

A QUESTION OF VALUE

What is a Certified Valuation Analyst?

CERTIFIED VALUATION ANALYSTS ARE TRUE VALUATION PROFESSIONALS. IF YOU NEED ASSISTANCE, PLEASE GIVE US A CALL.

A Certified Valuation Analyst (CVA) is a Certified Public Accountant (CPA) who has completed specialized advanced training in business valuations, and who has also completed a comprehensive examination, case study, and submitted a complete written valuation report to examiners.

CVAs are CPAs who usually have significant experience with business valuations before becoming a CVA. CVAs are members of the National Association of Certified Valuation Analysts. CVAs receive continuing education in valuations each year, observe the ethics, reporting standards, and practice standards of NACVA and AICPA. A CVA is more the just another CPA.

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A QUESTION OF VALUE

What is meant by "Premise of Value?"

EXPERIENCED CERTIFIED VALUATION ANALYSTS KNOW THE IMPORTANCE OF IDENTIFYING THE CORRECT PREMISES OF VALUE. WE CAN HELP YOUR CLIENTS WHEN CREDIBLE VALUATION REPORTS ARE REQUIRED.

The "Premise of Value" can refer to an assumption as to the status of the business under which a transaction is, or would be expected to occur. That is to ask, will the business be a going concern, will it be in an orderly liquidation, will it be as a forced liquidation, or will it be the value as an assemblage of the assets being in a nonproductive state?

Other considerations pertaining to the "Premise of Value" may include, but are not limited to: 1) Is the interest being valued a controlling interest? 2) Is the valued interest a minority interest? 3) What is the status of the interest's marketability? Any one of, or a combination of the above considerations will have a significant impact upon the work performed by the valuation analyst.

A QUESTION OF VALUE

Are "Rules of Thumb" useful in business valuations?

DO YOU WANT MORE INFORMATION ABOUT "RULES OF THUMB" OR OTHER VALUATION ISSUES? GIVE US A CALL FOR MORE INFO.

"Rules of Thumb" are generally expressed as multipliers. A common example would be that some particular type of business will sell for .75 to 1.50 times annual revenues. Another popular multiple is a multiple of discretionary earnings. For example, a particular type of business is said to sell for X times Seller's Discretionary Cash Flow (SDCF), or Owner's Cash Flow (OCF). There may also be other rules of thumb relating to some measure of physical volume, such as X dollars times each keg of beer sold per month.

Are such rules of thumb useful? Generally, rules of thumb should not be used as a primary method of business valuation. The valuation of any type of business can change over time due to changes in technology, economic and industry conditions. Rules of thumb may be useful as "sanity checks" or guessing ballpark ranges, but will seldom be accepted by courts as a substitute for a qualified valuation.

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A QUESTION OF VALUE

What valuation considerations should be made in buy-sell agreements?

ARE YOUR CLIENTS ADEQUATELY PROTECTED BY THE VALUATION PROVISIONS OF THEIR BUY-SELL AGREEMENTS? CALL US; WE CAN HELP.

Values established by buy-sell agreements may be ignored, be controlling, or be only a factor to consider in determining values. The Tax Court listed the following factors for making the buy-sell agreement price controlling for federal estate tax purposes:

1. The price must be fixed or determinable
2. The agreement must be binding on the parties both during life and after death
3. The buy-sell must have been entered into for bona fide business reasons
4. The buy-sell agreement must not be a substitute for testamentary disposition

However, another court rejected the buy-sell agreement as controlling because:

1 The purchase price was fixed and not subject to any reevaluation

2 Payment terms were too generous, indicating the testamentary nature of the agreement

3 Failure to have a professional valuation performed at the time of the agreement.

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A QUESTION OF VALUE

Should as much emphasis be placed on the willing seller as the willing buyer?

A GOOD VALUATION REPORT WILL ADDRESS CONSIDERATIONS OF BOTH BUYER AND SELLER. CALL US. WE WILL BE HAPPY TO REVIEW YOUR CLIENTS' BUSINESS VALUATION NEEDS.

While it is important to consider a potential buyer's positions in a business valuation, it is equally important to give consideration to the potential seller's positions in a valuation.

Some Tax Court decisions have either modified or completely rejected an expert's opinion of value because the expert focused solely on the buyer, with no consideration given to whether the value would be acceptable to the hypothetical willing seller.

While the hypothetical buyer will only pay so much, the hypothetical seller will only accept so little.

A QUESTION OF VALUE

What is the most important aspect of the market approach to business valuation?

The market approach to business valuation can provide excellent indications of value. While the mechanics of some market approaches are quite simple, the market approaches can also be easy targets for cross examination.

The legal profession is engaging more and more valuation experts in valuation cases. Accordingly, the bar has been raised, and courts are becoming much more sophisticated and able to evaluate market approach presentations.

Sound market data is essential in the courtroom. But where does one find sound market data? Experienced business valuation analysts have access to many sources of market data, and are experienced in the proper use of that market data.

A QUESTION OF VALUE

Are past transactions involving a company's stock important considerations in business valuation?

A very useful, but sometimes overlooked market approach method is the analysis of past transactions involving the subject company. There are at least three groups into which these transactions can be classified:

1 Acquisitions made by the subject company (treasury stock, for example)

2 Past changes of a controlling ownership in the subject company

3 Past transactions in minority ownership interests in the subject company

It is important to determine that the transactions falling into one of the three groups were transactions negotiated at arm's length (said transaction was negotiated by parties, each acting in his or her own best self interest).

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A QUESTION OF VALUE

The Attorney/Valuator Partnership in Divorce Cases

WHEN YOU NEED EXPERTLY PREPARED BUSINESS VALUATIONS, AND VALUATION ADVICE, CALL A CVA. WE'RE HERE TO HELP.

Equitable distribution in divorce causes the need for emphasis to be placed upon the economic aspects of marriage. This includes the valuation and division of marital property, as well as any resulting tax consequences.

This economic emphasis in divorce proceedings has created a very important relationship between matrimonial attorneys and financial experts such as CPAs and business valuators.

The attorney and the financial expert each have important and complex tasks to perform. Accordingly, it is extremely important for the two to coordinate their efforts to best serve the client.

All Certified Valuation Analysts (CVAs) must first be Certified Public Accountants in order to proceed through the rigorous valuation training and certification process.

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A QUESTION OF VALUE

Improving financial discovery can lead to improved financial outcomes

CONSIDER THE BENEFITS OF GETTING A CVA INVOLVED IN THE EARLY STAGES OF DISCOVERY. CVAS ARE CPAS WITH SPECIAL FINANCIAL AND VALUATION TRAINING. THEIR EARLY INVOLVEMENT IN THE DISCOVERY PROCESS CAN HELP MOVE THE CASE ALONG AND IMPROVE YOUR CHANCES FOR SUCCESS.

Complete financial information provided to a financial expert can lead to more credible work product produced by the expert. Unfortunately, many attorneys bring the CPA/CVA into the picture too late in the case! The danger here can be that if the financial expert isn't experienced in working with these cases on a regular basis (such as the CPA who does not possess specialized training in business valuation or forensics procedures), then the expert may try to use only the original information provided, and that may produce a woeful product that will collapse under aggressive cross examination. If, an expert identifies the deficit in available information, additional documents and information must then be requested. This can lead to stalling tactics, motions being made, waiting on rulings, etc. In general, this is disruptive to the flow of the case, and can substantially impair and prolong the case, to everyone's detriment.

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A QUESTION OF VALUE

Forensic considerations in divorce

A CPA/CVA ENGAGED TO ASSIST IN THE INITIAL DISCOVERY PHASE WILL GENERALLY PROVIDE BENEFITS BEYOND THE COST.

When representations made by an opposing spouse appear questionable, a CPA may be engaged to test the financial representations by performing forensic procedures. For example, a family incurs annual living expenses of $90,000 and the earner spouse claims to make only $40,000 per year. If one spouse makes a representation that is challenged by the opposition, a CPA may be requested to perform certain forensic procedures. These forensic engagements may be add-ons to an existing divorce-related engagement or they may be stand-alone engagements.

Forensic procedures require a good deal of information. If the attorney (representing the spouse that is requesting forensic procedures) has not done a thorough job in the initial discovery phase, the cost of performing forensic procedures will be greatly increased and the benefits of the forensic procedures may be lessened. This is why it is extremely important for the attorney to enhance the financial discovery process at the very beginning of a case.

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A QUESTION OF VALUE

What's the difference between an expert consultant and expert witness?

THE CPA/CVA VALUATOR MAY BE AN ADVOCATE FOR HIS OR HER OWN OPINION OF VALUE. THE VALUATOR IS SUPPOSED TO BE UNBIASED AND COMPLETELY INDEPENDENT IN RENDERING AN OPINION OF VALUE. CERTIFIED VALUATION ANALYSTS ARE HIGHLY TRAINED ETHICAL PROFESSIONALS WHO HAVE EARNED THE RESPECT OF THE PROFESSIONAL COMMUNITY. ALLOW US TO HELP IN YOUR NEXT CASE.

Expert consultant. As an expert consultant, the CPA/CVA is engaged to develop information that will be used by the attorney in a variety of ways, including settlement negotiations with the opposing side. In these instances, the CPA is usually not expected to testify or to develop an opinion that will be entered in to the court records. The documents created by the CPA may be protected by attorney-client privilege. In this situation, the CPA is working for the client's advocate.

Expert witness. When a CPA/CVA is hired as an expert witness, the CVA will often have to provide deposition and courtroom testimony, and all of the documents created, including reports relating to the case, are subject to "discovery" by the opposing side. Professional standards prohibit the CPA/CVA from being an advocate for the client in situations where an opinion of value is rendered. A valuator is considered to be acting in an unethical manner if he or she advocates the client's position.

A QUESTION OF VALUE

Are "Rules of Thumb" appropriate valuation methods for litigation matters?

A CERTIFIED OR ACCREDITED VALUATION ANALYST SHOULD ALWAYS BE CONSULTED WHEN A BUSINESS VALUATION IS NEEDED IN ANY LEGAL MATTER.GIVE US A CALL IF YOU'D LIKE HELP.

Rules of thumb exist for several types of businesses. They were developed by business brokers over time, based upon actual sales transactions involving businesses in a particular industry.

While a rule of thumb can provide buyers and sellers of businesses with an indication of value, it cannot be substituted for a formal valuation method under existing valuation standards.

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A QUESTION OF VALUE

What is the difference between enterprise value and equity value?

A CERTIFIED OR ACCREDITED VALUATION ANALYST CAN ALWAYS ASSIST YOU IN THESE MATTERS. GIVE US A CALL IF YOU'D LIKE HELP.

Sometimes people use the two terms interchangeably. However, for legal purposes there may be a significant difference in the two terms. Let's assume your client is involved in a divorce action, and it is important to know the value of the business for settlement purposes. In this instance, you want the value of all assets less all liabilities.

Enterprise value is often referred to as the value of the hard business assets (property, equipment, etc.) and the goodwill of the business. Equity Value is the Enterprise Value PLUS cash on hand, accounts receivable, inventories, and LESS all liabilities of the business. When dealing with legal matters, it is important to understand exactly what a definition of value includes, or excludes.

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A QUESTION OF VALUE

What is EBITDA and why is it important in financial analysis?

A CERTIFIED OR ACCREDITED VALUATION ANALYST KNOWS HOW TO PROPERLY USE EBITDA IN THE ANALYSIS OF A COMPANY'S EARNINGS CAPACITY. GIVE US A CALL IF YOU'D LIKE HELP.

EBITDA stands for Earnings before Interest, Taxes, Depreciation and Amortization.

EBITDA earnings are used by many valuators and financial analysts as a method to compare the cash earnings of a subject company with cash earnings of comparable companies.

This method of earnings comparison is useful because it equalizes differences between or among companies in their capital structures, their depreciation methods and tax rates.

This "equalization" allows the analyst to make informed judgments about earning capabilities of each company.

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A QUESTION OF VALUE

Should Certified Valuation Analysts be engaged only for valuations?

CALL A CERTIFIED VALUATION ANALYST WHEN YOU NEED A QUALIFIED FINANCIAL PROFESSIONAL. WE'RE HERE TO HELP YOU.

Certified Valuation Analysts (CVAs) are Certified Public Accountants who have obtained special training in financial analysis as well as business valuation theory, practice and reporting.

This specialized training— in combination with the CPA training and knowledge— makes the CVA the preferred choice in any job requiring financial analysis.

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A QUESTION OF VALUE

Whom should you contact for assistance with financial discovery?

CALL A CERTIFIED OR ACCREDITED VALUATION ANALYST WHEN YOUR CASES INVOLVE BUSINESS OWNERSHIP. WE'RE HERE TO HELP.

In cases involving business ownership, financial discovery can be extremely complicated.

Obtaining complete financial discovery in the early stages of a case is important.

Certified or Accredited Valuation Analysts are trained to know exactly what should be requested for business financial discovery.

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A QUESTION OF VALUE

Where can you find comparable sales transactions for valuing a business?

CONTACT A CERTIFIED OR ACCREDITED VALUATION ANALYST FOR PROPER APPLICATION OF DATA IN MATTERS OF BUSINESS VALUATION. WE'RE HERE TO HELP.

There are different sources of transactional data available for valuation purposes.

Pratt's Stats, Done Deals, IBA's ***Database of Sales Transactions***, and ***BIZCOMPS***, are examples of information that is available.

However, while each service provides different information, it is important to understand the terminology used by each one.

Definitions of earnings for price multiples may be determined differently by the different services. Misapplication of data can result in incorrect conclusions.

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A QUESTION OF VALUE

What are seller's discretionary earnings?

Accountants and lawyers often think of earnings in terms of "net profit" or "net after-tax income."

But, for closely held businesses, do those measurements tell the whole story?

Business valuators and business brokers tend to disregard the historical income figures in favor of "Seller's Discretionary Earnings" (SDE) generated by the business.

There are different versions of SDE, but all have the same goal: determining the amount of actual benefit that is provided to the business owner. This measurement is one that also has an impact upon the value of a company.

CONTACT A CERTIFIED OR ACCREDITED VALUATION ANALYST TO LEARN MORE ABOUT THIS IMPORTANT BENEFIT MEASUREMENT.

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A QUESTION OF VALUE

Baby Boomer business owners need valuation help, now more than ever!

CALL A CERTIFIED OR ACCREDITED VALUATION ANALYST FOR ASSISTANCE IN HELPING YOUR CLIENTS BEGIN PREPARING.

Think about this: It has been estimated that between now and 2015 almost $3 trillion dollars will change hands as baby boomers pass their businesses on to the next generation.

While some will gift business interests, far more will be looking for an outright sale of their business.

The sad truth is that many business owners will not be ready to reap the maximum benefits from their businesses. Realizing the maximum sales price of a business can take years of preparation.

Do your clients know how to prepare for sale?

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A QUESTION OF VALUE

Bringing loyal employees into your business ownership

A CERTIFIED OR ACCREDITED VALUATION ANALYST CAN PROVIDE GREAT ASSISTANCE IN DETERMINING FEASIBILITY. CALL US.

Do you have busy clients who are the sole shareholders of their businesses?

Sometimes business owners limit their organization's growth by limiting the size of the "talent pool." Shareholders who begin to realize this might need to look no further than to the ranks of their employees.

Properly motivated employees can bring new energy and ideas to the table. Issuing voting and non-voting shares of stock to key employees can be a good way to share the rewards of success. However, proper analysis, planning and valuation of the stock are necessary before implementing such a plan.

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A QUESTION OF VALUE

What is the difference in all the various valuator credentials?

CALL A CERTIFIED OR ACCREDITED VALUATION ANALYST AND LEARN WHY A NACVA- TRAINED PROFESSIONAL MAY BE YOUR BEST CHOICE WHEN CHOOSING A PROFESSIONAL.

Okay, you've seen the professional designations such as CPA, CVA, AVA, ABV, ASA, CBA, CFFA and so on. But what are all of these designations? Isn't just a regular CPA all one needs in a matter of valuation or forensic accounting?

A CPA without further training, experience, credentialing and continuing education in business valuation or forensic accounting is woefully ill-prepared to tackle important issues dealing with business valuation, fraud deterrence, and litigation support.

The various professional designations are ***earned*** by the holders. The National Association of Certified Valuation Analysts (NACVA) has a very informative chart, which will identify and distinguish these credentials.

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A QUESTION OF VALUE

What is valuation enhancement, and why do my clients need it?

WHY NOT PUT YOUR BUSINESS CLIENTS IN TOUCH WITH A CERTIFIED OR ACCREDITED VALUATION ANALYST? WE CAN HELP YOUR CLIENTS ENHANCE AND STABILIZE THE VALUES OF THEIR BUSINESSES.

The stock market bubble burst sent many retirees to work at places such as Wal-Mart and Sam's Club. Their investments all relied upon investments that were controlled by others.

But think about this: your business clients have an opportunity to have control of their own financial futures— if they know what to do and how to do it. A business should be more than just a job; it can also be one of your clients' best investments.

The key is to enhance and stabilize the value of your clients' businesses. A properly prepared business can be a real boost to your clients' "golden years."

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