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Client Information Bulletin

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Seven Reasons for a Business Valuation

Find out the current worth of your business

What is your business worth right now? You may not have much of a clue or have only a hazy idea. After all, if you are not currently advertising your business for sale, what's the difference?

Plenty. If you haven't already recognized the need for conducting a business valuation, there are several compelling reasons to do so. Just consider the following points.

1. The valuation can have a significant impact on estate planning. For instance, after a valuation is made, it may be advantageous to make gifts of fractional interests in the business to your children and grandchildren.

2. You may want to eventually transfer your business interest to one of your children who is already active in the business. Valuing your business gives you an idea of the cash or other assets you might give to any other children who will not be participating in the business operation.

3. Frequently, co-owners or partners enter into a buy-sell agreement. By setting a value beforehand, you can avoid a dispute at a time when emotions are likely to be running high. Similarly, a sale could be triggered by the disability of one of the owners.

4. A valuation may be needed to secure adequate insurance coverage against natural disasters. Look no

further than all the businesses that were destroyed by hurricanes, floods and fires in recent years. You must take steps to protect your business interests.

5. The valuation may be significant for business owners involved in a separation or divorce. Under the divorce laws of most states, business interests are subject to the rules for property settlements. Check with your professional advisers for more information.

6. There are several potential estate-tax breaks available for owners of closely held businesses. By establishing a current value, you can put your estate in a position to qualify for favorable tax treatment.

7. Finally, if you might intend to sell the business at some point, it would be helpful to establish a starting point for negotiations.

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The exact methodology used for a business valuation may vary according to your particular circumstances and your type of industry or profession. However, generally speaking, the standard for arriving at the value for tax purposes is the price a willing buyer would pay a willing seller.

The following factors have traditionally been used to value the stock of a closely held company:

◆ The nature and history of the enterprise;

- ◆ The condition and the future economic outlook of the industry;
- ◆ The financial condition and book value of the business;
- ◆ The company's earning and dividend-paying capacity;
- ◆ The company's goodwill;

- ◆ Prior sales of the company stock; and
- ◆ The price of similar stocks in the industry.

If handled properly, a business valuation can provide protection for you and your family. Obtain guidance from an experienced professional.

Answers to Questions on the Family Leave Law

Explaining the basic concepts under the FMLA

Although it's been around for more than a decade—since 1993, to be exact—many employers and employees have expressed confusion over provisions of the Family and Medical Leave Act (FMLA). The following are answers to several basic questions about this ground-breaking legislation.

Q. What is the law's main focus?

A. The law permits eligible employees to take up to 12 weeks of unpaid leave from work for the birth or adoption of a child, for reasons relating to their medical conditions or to care for another family member.

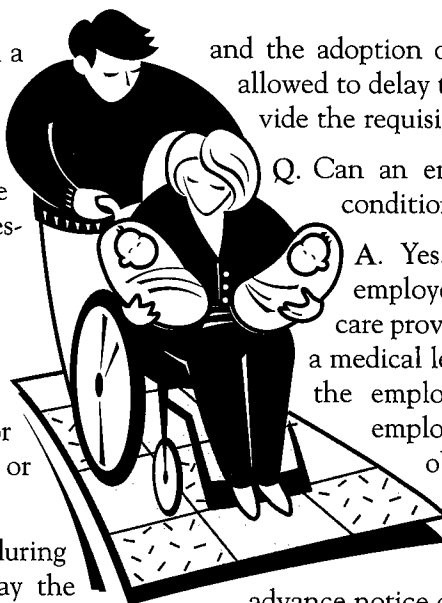
An eligible employee maintains benefits during the leave period, but must continue to pay the required employee portion for such benefits. The employee also has the right to return to the same or equivalent position, pay and benefits at the conclusion of the leave.

Q. Who is an eligible employee?

A. It is someone who has been employed by the business for at least 12 months and who has worked at least 1,250 hours during that period. This rule applies if the business has 50 or more employees within 75 miles of the worksite.

Q. What notification must the employee provide?

A. The employee must provide 30-day advance notice for foreseeable events. This includes scheduled surgery



and the adoption or birth of a child. The employer is allowed to delay the leave if the employee fails to provide the requisite 30-day notice.

Q. Can an employer require proof of a medical condition?

A. Yes. The employer may request that the employee obtain certification from a health care provider in order for the employee to take a medical leave. Upon completion of a leave for the employee's own medical condition, the employer may require that the employee obtain a certification of fitness to return to work. The employer can delay the start of FMLA for 30 days if the employee does not provide advance notice or proper certification.

Q. What notification must the employer provide?

A. An employer must give an employee requesting FMLA written notice, within two business days, if the employee is not eligible for FMLA. If the employer does not respond to a leave request within two business days, the employee is eligible to take the leave.

Q. Does the employee have to take the leave in consecutive weeks?

A. No. The employee can take 12 weeks off during any 12-month period. The leave may be taken on an intermittent basis. For instance, an employee might switch to part-time status until the equivalent of 12 weeks has been used.

Note: Employers covered by the FMLA must display a notice outlining the law's provisions. The notice must be displayed in a conspicuous place whether or not the employer currently has any eligible employees.

If you have additional questions about the application of the FMLA to your situation, contact your legal and business advisers.



Give Us A Call!

*Do you have any questions or comments about **Client Information Bulletin** or your individual situation? Please do not hesitate to contact our office. We would be glad to serve you in any way we can.*

Common Tax Breaks for Telecommuters

Special tax opportunities when working at home

The number of telecommuters in this country continues to rise. It is currently estimated that about 15 million workers can be classified as telecommuters who do most of their work from their home environments. The trend indicates that convenience, overhead savings, and flexibility are valued by employers and employees alike.

If you have recently joined the wave of telecommuters, be aware that you may be in line for certain tax breaks. Here is a brief overview of several common opportunities.

Home office expenses: You are able to deduct expenses attributable to a home office that you use “regularly and exclusively” as either your principal place of business or a place to meet or deal with clients or customers in the regular course of business. For example, if you conduct client negotiations in your den, you may qualify for deductions. The tax law allows you to deduct your direct expenses plus a proportionate percentage of indirect expenses such as your gas and electric bills.

Be aware that there is an additional test if you are an employee of a company. In this case, you must use the

home office for the convenience of the employer. It is recommended that you obtain a written statement from your employer to that effect.

Travel and entertainment (T&E) expenses: Assuming you qualify for home office deductions, you can deduct travel expenses to and from other business locations. For instance, the cost of traveling to visit business clients at outside locations is deductible.

Similarly, you may be able to deduct entertainment costs following or preceding a substantial business discussion at your home. All of the regular rules for deducting T&E expenses apply.

If you are an employee and you satisfy the “convenience of employer” test (see above), you can generally deduct travel expenses between your home office and other business locations of your company (e.g., a branch of the main office).

Computers: If your employer furnishes you with a computer and peripheral equipment (e.g., a printer), the employer can write off the cost it incurs. The value is generally treated as a tax-free “working condition” fringe benefit to you. On the other hand, if you pay for the equipment yourself, you may deduct the cost only if it is required as a condition of employment and it is used for the convenience of the employer. Spell out these requirements in your employment contract.

Telephone expenses: The basic rule is that you can’t deduct costs associated with your home telephone line. It is treated as a personal expense. But you may write off costs of a second line installed exclusively for business use plus long-distance business calls on either line. Comparable rules apply to cell phones.

Reminder: *Unreimbursed employee business expenses are treated as miscellaneous expenses on your personal tax return. You can deduct the total of your miscellaneous expenses for the year only to the extent it exceeds 2% of your AGI. When possible, have your employer reimburse you for business-related expenses.*



Avoid Clouds in Brainstorming Sessions

It often seems like a good idea to brainstorm in business meetings. But brainstorming can become bogged down in office politics or “me-first attitudes.” To avoid these problems, consider implementing a few key rules that will enable more ideas to flow.

Here are several suggestions you might heed:

- ◆ No idea can be criticized.
- ◆ No idea is too strange.
- ◆ Accentuate quantity, not quality.
- ◆ Look for ways to enhance other ideas.
- ◆ Refrain from clichés like “we’ve always done it this way.”

Taking such steps should stimulate creative thinking. It might also lead to the breakthrough you are looking for.

Putting a 401(k) on Autopilot

New law provisions encourage feature

The basic benefits of 401(k) plans are well known. In brief, you can defer part of your salary to an account on a pretax basis. The contributions are invested and can compound without any current tax erosion until you make withdrawals. This may enable you to save a sizeable amount for retirement.

However, if you are a highly compensated employee, you may be hindered by special nondiscrimination rules if enough employees do not join in the plan. These rules have spawned the use of "automatic-enrollment" 401(k) plans.

With such a plan, deferrals are made on behalf of employees if they do not proactively opt out of the plan. So it becomes more likely that the required levels of employee participation are met. Furthermore, several provisions in the Pension Protection Act of 2006 will enhance the automatic-enrollment feature.

Background: An employee can defer up to \$15,500 to a 401(k) plan in 2007. If you are age 50 or older, you can contribute an extra \$5,000 this year, for a maximum total contribution of \$20,500. An employer may choose to provide matching contributions up to certain levels. These contributions can also grow on a tax-deferred basis.

In addition to the usual requirements for qualified retirement plans, a 401(k) plan must meet an actual deferral percentage (ADP) test for pretax contributions and an actual contribution percentage (ACP) test for matching contributions. If the 401(k) plan fails either test, the employer

must make corrective distributions to highly compensated employees or provide extra contributions for nonhighly compensated employees.

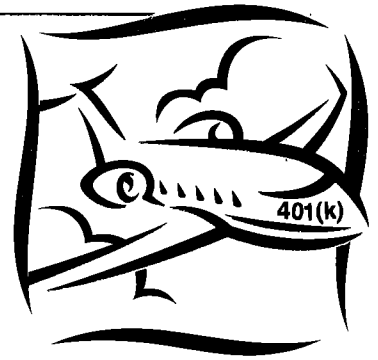
Note: Under a special safe harbor rule, the employer may provide minimum contributions of at least 3% of compensation to nonhighly compensated employees.

The automatic-enrollment feature generally results in more employees participating in the plan. So both the ADP and ACP tests may be satisfied with this option.

Before the Pension Protection Act was passed, Congress had approved of automatic-enrollment plans in a series of rulings and regulations. Now there is an added incentive.

New rules: Under the Act, various rules are liberalized for employers using this feature. For example, the Pension Protection Act preempts state laws that could interfere with the operation of an automatic-enrollment plan. Also, plan fiduciaries are relieved of their fiduciary responsibility for investing employee contributions when the employee fails to make an investment election if contributions are invested in a qualified default alternative. Another change authorizes a safe harbor from testing if certain technical requirements are met.

Obviously, this is a complex area of the law requiring professional assistance. Do not hesitate to seek guidance from experienced practitioners.



Facts and Figures

Timely points of particular interest

➔**Motivational Tools**—For business managers, motivating employees should be a daily occurrence. For instance, you might recognize accomplishments with a timely phone message or voice mail. You can even do it on your way home from your cell phone. Alternatively, send out a short e-mail. This lets employees know on a regular basis that you are appreciative of their efforts.

➔**Order in the Court**—In a new case, a taxpayer convinced the Tax Court that certain income the IRS claimed should have been taxable actually constituted loans and gifts from other family members. But the court determined it was reasonable for the IRS to maintain its position under the circumstances. Therefore, the taxpayer could not recover his court costs and attorney fees—even though he prevailed on the main issue.

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