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# Valuations in Collaborative Divorce

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*“Marriage is a three-way contract between two adults and the state that they live in.”*  
— attributed to J. Micara, a 20th century philosopher

What is collaborative divorce and how can valuations assist in the process? This article aims to address these two questions.

## COLLABORATIVE DIVORCE

Collaborative divorce is the peaceful resolution of that “three-way contract” that can otherwise be colloquially known as “a messy divorce.” In a collaborative divorce, the spouses agree to work together on the terms of the divorce and present a fully negotiated divorce agreement to the Court for ratification of the agreement. The Courts are not a mere rubber stamp, especially when children are involved. A collaborative divorce supported by attorneys can preempt the Court’s questions regarding minor-children’s rights as well as other challenges.

## VALUATION

Lawyers and shareholders rely on valuations, but valuations are a mere estimate. In business divorce and matrimonial divorces, disputes over value can happen when there are differing opinions among valuation analysts.

Generally, there are three methods for arriving at an estimated value: the income approach, the market approach and the asset approach. The income approach is what some professionals refer to as “the multiple of EBITDA,” the market approach is what people refer to as “comparable,” and the asset approach is the realizable value of assets, net of the realizable burden of liabilities.

Valuation reports are also divided into three categories: 1) calculation of value, 2) conclusion of value in summary and 3) conclusion of value in detail. Calculation engagement reports produce a “calculated value” and do not express an opinion. Often, a calculated value is arrived at using only one of the three valuation approaches. Calculation reports can also use other agreed-upon methods and hypothetical assumptions.

Conclusion of value, also known as “valuations,” must consider *all* established methods: income, market and/or asset approaches. Valuation may be presented in a summary report with an expression of an opinion or in a detailed report, which is complete with all the details underlying the conclusion of value. A summary report is an abridged version of the detailed report. Detailed reports are required in certain tax filings such as transfer of shares or estate matters, while summary reports have broader uses.

## BRINGING IT TOGETHER

Collaborative divorcing couples meet valuations when the couple is legally separating by trying to avoid litigation; the couple can turn to a valuation analyst — the specialist who is able to render advice and ideas — on how to arrive at a value of assets and how to divide or even co-share it.

For example, a couple divorces while co-owning a small-distribution designer bag company. Spouse “A” is responsible for logistics and sales, and spouse “B” does product development and procurement. The divorcing couple wishes to “put it all behind them,” but dissolving the company would have a negative financial impact

During the negotiations over their divorce agreement, they requested that a CPA perform a “back of the envelope valuation,” but the analyst pushed back. She explained that it is not ok, according to valuation standards, to provide professional services merely based on “the rule of thumb.” So, the couple engaged the CPA for a valuation. They saved significant fees because the CPA explained that her fee is based on the level of the report, and that for this type of internal negotiation, a calculation engagement report is just as effective as a valuation

summary report, which would cost more. Next, the CPA produced agreed-upon scenarios for calculated value (using the income approach): what would the value of the company be if spouse A leaves the company versus if spouse B leaves. Based



on the scenarios, the decision became clear as to which spouse should sell their share to the other under the appropriate hypothetical scenario.

What does this example tell us?

- ✓ Valuation engagements are not all alike. The clients should be familiar with the types of reports and know the pros and cons of each service.
- ✓ Clients may not be sure what to ask, so CPAs can help them by going through the options and evaluating them.
- ✓ Creative solutions like hypothetical sale scenarios can be and should be the hallmark of a proactive valuation analyst. 🧩

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