



BUSINESS VALUATION ADVISOR

*Commentary on the business of business valuation
for estate planning professionals and business owners*

This newsletter is for the information of attorneys, financial planners and business owners who deal with business valuation issues and are interested in the current thinking in business appraisal. It is not a "how to" publication, but more of an explanation of a complex professional service.



COMMENTARY

LANDMARK CASE - ESTATE OF JELKE APPEAL UPHELD

In November, the 11th Circuit Court of Appeals approved a "dollar for dollar" reduction for built-in capital gains of a minority interest in a closely held corporation. The Court overruled the Tax Court's prior allowance of a partial discount. This is a big win for the taxpayer. The issue is the embedded or built-in gain on appreciated assets in a corporation. Would a willing buyer subject himself to a contingent tax without discounting the purchase price? Heretofore, business valuers would take only partial discounts or factor in a built-in gains tax with a marketability discount. The IRS may appeal this recent decision, but, based on this decision, it appears clear that valuation advisors should be deducting 100% of the BIG tax and we shall do so in our firm's valuation work. The decision provides practical certainty to tax practitioners, appraisers and financial planners. See Cases in Brief below for a copy of the recent ruling. ▣



THE TUCKER & MELTZER DIFFERENCE

Tucker & Meltzer Valuation Advisors are independent business valuation advisors. We provide no other services (accounting, legal, financial planning or investment). Tucker & Meltzer represents an economical alternative to more expensive accounting and large valuation firms. We offer accurate, well documented, up to date, and market based value comparisons and promise an exceptional turn-around time. We have the experience and knowledge to handle the tough jobs and we look forward to having the opportunity to work with you.

"The decision provides practical certainty to tax practitioners, appraisers and financial planners."

IRS APPRAISER PENALTIES APPLY TO ESTATE/GIFT TAX RETURNS

The question has been hanging over the appraisal community since the Pension Protection Act of 2006 added section 6695A penalty provisions to the Internal Revenue Code. Do these same penalties apply to an appraiser who prepares an appraisal used in connection with an estate or gift tax return? The Service may assess a section 6695A penalty against an appraiser for appraisals prepared after May 25, 2007 that are used in connection with an estate or gift tax return or claim for refund

*On the subject of appraiser penalties for gross misstatements:
"Pretty big news, especially to the part-time valuers lollygagging their way through BV minefields on pogo sticks."*

- Warren Miller (Beckmill Research)

or credit that results in a gross valuation misstatement. "Pretty big news," comments Warren Miller (Beckmill Research), "especially to the part-time valuers lollygagging their way through BV minefields on pogo sticks." □

CASES IN BRIEF

ESTATE OF FRAZIER JELKE, III V. COMMISSIONER T.C. NUMBER 3512-03, NOVEMBER 15, 2007

This much debated estate case involved built-in gains in a C Corporation, in which the estate deducted 100% of the projected tax in determining the value of the decedent's stock investment. On appeal, the estate proffered "an economic market reality theory" for the deduction. The Eleventh Circuit Court agreed with the simple yet logical analysis of the tax discount valuation and sent the case back to the Tax Court. A copy of the appeal decision [[click here](#)] may be found on our web site. □

ANNOUNCING . . .

In October, Brooke Tucker was elected as an Accredited Senior Appraiser with the American Society of Appraisers.

In October, Brooke Tucker attended the ASA Advanced Business Valuation Conference in San Diego.

In December, Anne Meltzer, CPA/ABV and Brooke Tucker, ASA attended the AICPA National Business Valuation Conference in New Orleans. □



TUCKER & MELTZER VALUATION ADVISORS

Tucker & Meltzer - Valuation Advisors is a business valuation firm focused on the needs of family limited partnerships and closely-held companies. The firm's founding partners have extensive experience and credentials in valuing closely-held and asset holding companies. We have performed over 300 valuations for companies in a large number of industries, reflecting our broad experience in accounting, finance, litigation services, valuation theory and capital transactions.

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RECENT ASSIGNMENTS

MKTS FLP (2) - Gifts

Medical Devices - Stock Options

Electronic Games - Transfer

Material Handling - ESOP

Electrical Contractor - Sale

Real Estate FLP (3) - Gifts

Real Estate FLP (12) - Estate

Pizza Mfr. - Board Information

Govt. Contractor - ESOP

National Charity - Asset Sale

Automobile Dealerships (2) - Gifts

ON THE SUBJECT OF DISCOUNTS . . .

Through the 3rd quarter of 2007, the median minority interest discounts for all industries was 14.9% according to the Mergerstat/BVR Control Premium Study. For REIT's the median was 10.8%, a discount we would consider in an FLP holding real properties. □

PRIVACY STATEMENT

We take your privacy very seriously.
T&M sends periodic (not frequent) announcements and newsletters to our friends and associates. To opt out of this newsletter, and all other email communications, click [here](#) to unsubscribe to BVA. □