



TUCKER & MELTZER

VALUATION ADVISORS

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BUSINESS VALUATION ADVISOR

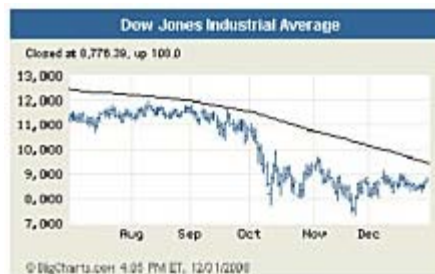
*Commentary on the business of business valuation
for estate planning professionals and business owners*

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

For 2008, the financial world contracted about 40%. The Dow Jones Industrial Average closed down 34% on the year, and less liquid stocks and financial assets were down even more. For valuation analysts, we are in somewhat uncharted territory. Are these the true values of these assets? Are they temporarily impaired or will they recover within a year or two?



Two big questions – with multiple answers, depending on who you are talking to. Consider that many of the closed end funds are now trading at a median discount to net asset value of 22% (December 2008). In January 2008 the median for general equities was just 10%. This can make a big difference in estate planning. And consider discounts for lack of marketability – certain sectors such as financial services and automobile dealerships would have very large discounts at this time.

Now would be a great time to consider gifts and GRATs of depressed securities and real estate. □

VALUATION PERSPECTIVES

As discussed briefly above, many people have suffered a decline in asset values. For the most part, these asset values will recover as the market returns to some level of normalcy. We are engaged in the valuation of several Employee Stock Ownership Plans.

The ESOP's main asset is a stock interest in a privately held company

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.

ANNOUNCING . . .

We are very pleased to announce Jennifer Poland Rosenberg as our newest associate. Jennifer comes to us from GE Capital Corporation where she was Vice President and Risk Manager in its equipment finance group.

She brings 16 years of experience to our firm, having started with Ernst



that is held for the benefit of the employee's pension. With the Dow average down about 35% from a year ago, it seems logical that there would be a downward trend in the value of these

companies. After all, we are in a mark to market world. It presents a tough situation for the Trustees and employees. Our view is that the market is temporarily impaired, and that the assets in the ESOP are being held for long term capital appreciation. On this basis valuations may be moderately adjusted to reflect the recent market declines, but overall, the value of these assets should not be punished. Over time values will recover. □

CASES IN BRIEF

Hurford v. Commissioner, T.C. Memo. 2008-278, December 11, 2008

It is a truth universally acknowledged that a recently widowed woman in possession of a good fortune must be in want of an estate planner. – Judge Holmes

The estate planner stretched to combine the FLP plan with a private annuity. He failed in the execution of his plan and disregarded or failed to understand the proper use of FLP/LLC planning. The court openly criticized the Estate's attorney for many errors, including sloppy drafting of key documents and making "egregiously false" statements on tax returns. He also declined to retain independent appraisals of the three FLPs, bragging to the Hurford heirs that he had "experience obtaining 50% discounts in settlements on estates with the IRS." He selected his own unsubstantiated discounts for the Hurford LPs, which the court characterized as though he "conjured the partnership discounts out of the air."

The court surveyed case law on FLPs and provided a list of factors to assess whether the FLP was formed for legitimate and significant nontax reasons. These factors include:

- Taxpayer's financial dependence on distributions from the partnership;
- Whether the taxpayer commingled his/her own funds with partnership funds;
- The taxpayer's delay or failure to transfer the property to the partnership;
- The taxpayer's old age or poor health when the FLP was formed; and

& Young and Morgan Stanley. She will be renewing her CPA license and becoming a Certified Valuation

Analyst in the coming months. Contact Jennifer@tuckerandmeltzer.com 410-925-6656. □



The entire staff of T&M attended the AICPA/ASA Business Valuation Conference in Las Vegas in November. Brooke Tucker attended the ESOP Conference immediately following the AICPA/ASA conference. Mark Norris and Brooke Tucker will present "How Much Is This Business Worth? - Valuations for Your Clients and Practice" at the MSBA Annual Meeting in Ocean City on June 12, 2009.

RECENT ASSIGNMENTS

Souvenir Stores - C to S
 Cemeteries - Purchase Allocation
 FLP - MKTS (4)
 Radio Tower - Buyout
 VW Dealership - Estate Freeze
 Architectural Millwork - Sale
 8(a) Government Contractor
 Vocational College - Gift
 Home Health Agency - Sale
 Industrial Distributor - Sale
 FLP - Real Estate (8)

DID YOU KNOW . . . ?

- Whether the FLP functioned as a business enterprise or otherwise engaged in any meaningful economic activity.

Perhaps not surprising given the problems of execution in this case, the court found that the Hurfords disregarded partnership formalities, commingled personal and partnership assets, had no meaningful economic activity, and Mrs. Hurford had transferred nearly everything she owned into the FLPs. Thus, the FLPs were includable under §2036 and §2038. A copy of the decision may be found on our website [[click here](#)]. □



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 500 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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We are calling your attention to the Pomeroy Bill (HR 111-436) which threatens all tax-related appraisals. If this bill becomes law it would have a devastating effect on the profession. Basically, the bill would kill the FLP by eliminating the use of valuation discounts in intra-family gifting of investment entities. It would also decrease discounts for family-owned operating businesses because it would outlaw the use of minority interest discounts. This bill is not being actively looked at now because Congress has too much on its plate. The appraisal profession (ASA and others) are beginning lobbying efforts to kill this bill. □

PRIVACY STATEMENT

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