

October 05, 2013 /**24-7PressRelease**/ -- Starting a small business involves taking risks and putting in a lot of hard work. When a good idea takes off and orders start to pile up, then it often makes sense to get the family involved. A spouse may take over expanding operations to help grow the company. As the business thrives, few consider what might happen to the [business in a divorce](#).

Divorce is a common denominator in the downfall of many companies. Buying out the interest of a spouse may leave the business starved for cash. An agreement to continue jointly operating the company may lead to internal strife as employees feel they need to choose sides.

By planning ahead business owners can protect their companies. A prenuptial or buy/sell agreement is one way to detail how co-owners of a business will value or sell their interest. This can limit future disagreements.

### Valuation of a business

When no valid agreement exists to govern valuation and division in a divorce action, Pennsylvania courts will first determine a valuation date. If only one spouse handles the day-to-day management of business, it may be appropriate to use the date of separation for valuing the company. In other cases, the court values the business as of the date of distribution or trial.

The value of the company will affect property division as well as a possible alimony award. How do you calculate the value of a private company?

There are three possible valuation methods in Pennsylvania--the market approach, the income approach, and the asset approach.

Determining which method to use often requires a review of the business' annual revenue over the course of several years, accounts receivable, inventory, other assets, and even goodwill built up in the community. It can also entail possibly finding a comparable business that has been sold recently. Often a couple can agree on one neutral expert to value the business. However, concerns that one spouse is hiding assets or has dissipated the business could

require a second opinion.

### Factors used to equitably divide marital property

When a court divides marital property, the [Pennsylvania statute](#) for equitable distribution requires that it do so in a manner that is equitable or fair. This involves looking at a number of factors and may mean that the division is not 50/50 and may be skewed in one party's favor. Some of the factors relevant to equitable distribution include:- Length of the marriage and whether there were any prior marriages;- Age, health, skills, employability of each spouse and the amount/sources of income;- Contribution by one party to the education or increased earnings potential of the other; and- Value of separate property owned by each party, standard of living and contributions by each party during marriage.

This is a partial list, but provides some guidance as to what the court reviews. If one spouse started a business before the marriage, then generally only the increase in value of the business during marriage is considered marital property. A valid prenuptial agreement may also exclude business assets from the marital property category.

Many pitfalls exist in valuing and dividing a business. After struggling to make your small business a success, a Pennsylvania family law attorney can help you negotiate a divorce property settlement that keeps your business on solid footing.

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