MERCER CAPITAL
Business Valuation & Financial Advisory Services

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Jones v. Commissioner

Tax-Affecting Is Not the Only Interesting Issue in This 2019 Tax Court Case

Estate of Aaron U. Jones v. Commissioner, T.C. Memo 2019-101 (August 19, 2019)

EXECUTIVE SUMMARY

In May 2009, Aaron U. Jones made gifts to his three daughters, as well as to trusts for their benefit, of interests (voting and non-voting) from two family owned companies, Seneca Jones Timber Co. (SJTC), an S corporation, and Seneca Sawmill Co. (SSC), a limited partnership. These gifts were reported on his gift tax return with a total value of approximately $21 million. The IRS asserted a gift tax deficiency of approximately $45 million on a valuation of approximately $120 million. The Tax Court ruled that value was approximately $24 million, agreeing with the taxpayer's appraiser.

In this case, the Tax Court again concluded that "tax-affecting" earnings of an S corporation was appropriate in determining value under the income method (see also Mercer Capital's review of the **Kress decision**). However, there are several other issues of interest in this case which we discuss further in this article.

BACKGROUND

SSC was established in 1954 in Oregon as a lumber manufacturer. SSC operated two saw mills – its dimension and stud mill – delivering high quality products that were technologically advanced, allowing SSC to demand a higher price for its products than its competitors. Early in its history, SSC acquired most of its lumber from Federal timberlands. As environmental regulations increased, SSC's access to Federal timberlands became at risk. Mr. Jones began purchasing timberland in the late 1980s and early 1990s when he became convinced that SSC could no longer rely on timber from Federal lands.

SJTC was formed as an Oregon limited partnership in 1992 by the contribution of those timberlands purchased by Mr. Jones. SJTC's timberlands were intended to be SSC's inventory. Further, both SSC and SJTC maintained similar ownership groups, with SSC serving as the 10% general partner of SJTC. As of the date of valuation, SJTC held approximately 1.45 million board feet of timber over 165,000 acres in western Oregon, most of which was acquired in those initial purchases between 1989 and 1992. In 2008, approximately 89% of SJTC's harvested logs were sold directly or indirectly to SSC and SJTC charged SSC the highest price that SSC paid for logs on the open market.

GIFT TAX VALUATION

In May 2009, Mr. Jones formed seven family trusts and made gifts to those trusts of SSC voting and nonvoting stock. He also made gifts to his three daughters of SJTC limited partner interests. Mr. Jones filed a timely gift tax return reporting values based upon appraisals prepared by Columbia Financial Advisors as shown in Figure 1 on the next page (Petitioner's Value). The IRS notice of deficiency asserted values much higher.

A petition was filed in the Tax Court by Mr. Jones in November 2013. Mr. Jones died in September 2014 and was replaced in the Tax Court proceeding by his estate and personal representatives. His estate then engaged another appraiser, Robert Reilly of Willamette Management Associates. Mr. Reilly was noted by the Court to have "performed approximately 100 business valuations of sawmills and timber product companies."

The original appraiser for the IRS was not noted in the case decision. At trial, the IRS' valuation expert was Phillip Schwab who, per the Court, has "performed several privately held business valuations." Additionally, the IRS was noted as having "previously reviewed and completed several business valuations, including several sawmills."

Their conclusions are presented in Figure 2.

Figure 1: Pre-Trial Values

	Petitioner's Value (Columbia Financial Advisors)		IRS' Value (Notice of Deficiency)	
Shares/Units Gifted	**Per Unit**	**Value of Block**	**Per Unit**	**Value of Block**
SSC Class A Voting (1,300 shares)	$325	$422,500	$1,395	$1,813,500
SSC Class B Non-voting (4,800 shares)	$315	$1,512,000	$1,325	$6,359,568
SSC Class B Non-voting (5,456 shares)	$315	$1,718,640	$1,325	$7,228,709
SJTC LP Units (10,267.67 units)	$350	$3,593,685	$2,511	$25,780,000

Figure 2: Trial Values

	Petitioner's Value (Willamette)		IRS' Value (Schwab)	
Shares/Units Gifted	**Per Unit**	**Value of Block**	**Per Unit**	**Value of Block**
SSC Class A Voting (1,300 shares)	$390	$507,000	$1,395	$1,813,500
SSC Class B Non-voting (4,800 shares)	$380	$1,824,000	$1,325	$6,359,568
SSC Class B Non-voting (5,456 shares)	$380	$2,073,280	$1,325	$7,228,709
SJTC LP Units (10,267.67 units)	$380	$3,901,715	$2,530	$25,973,611

SUMMARY OF THE COURT'S DECISION

Ultimately, the Court sided with Mr. Reilly's conclusions of values for SSC and SJTC, along with his reported discount for lack of marketability (DLOM). The only distinction the Court made with Mr. Reilly's DLOM was to correct a typo wherein the Appendix in Mr. Reilly's report referred to a 30% DLOM, when in actuality, he had applied a 35% DLOM. A summary of the Court's conclusions are shown in Figure 3.

Figure 3: Court's Decision

	Court's Decision	
Shares/Units Gifted	**Per Unit**	**Value of Block**
SSC Class A Voting (1,300 shares)	$390	$507,000
SSC Class B Non-voting (4,800 shares)	$380	$1,824,000
SSC Class B Non-voting (5,456 shares)	$380	$2,073,280
SJTC LP Units (10,267.67 units)	$380	$3,901,715

Item 1: SJTC's Valuation Treatment as an Asset Holding Company or an Operating Company

The most critical issue surrounding the large difference in the valuation conclusions of SJTC for both experts centered on the valuation approach. The Court noted that "when valuing an operating company that sells products or services to the public, the company's income receives the most weight." Contrarily, the Court noted "when valuing a holding or investment company, which receives most of its income from holding debt securities, or other property, the value of the company's assets will receive the most weight."

> The most critical issue surrounding the large difference in the valuation conclusions of SJTC for both experts centered on the valuation approach.

A question in this matter: is SJTC an Asset Holding Company or is it an Operating Company? Petitioners' experts concluded that SJTC was an operating company and relied on an income approach utilizing projections from management. Conversely, one respondent's experts concluded that SJTC is a natural resource holding company and relied on the asset approach utilizing real estate appraisal on the underlying timberlands.

One of the critical factors the Court relied upon in determining its conclusion of the nature of SJTC's operations centered on the Company's operating philosophy. SJTC relied on a practice called "sustained yield harvesting" which didn't harvest trees until they were 50 to 55 years old. As such, SJTC limited the harvest to the growth of its tree farms, even if selling the land or harvesting all of the trees would be the most profitable in the short-term. As discussed earlier, Mr. Jones began purchasing the timberlands and formed SJTC to supply the lumber to SSC for its long-term operations.

The other argument the Court considered when determining how to treat SJTC was the limited partner units in question. Specifically, the subject blocks of limited partner units could not force the sale or liquidation of the underlying timberlands. Recall, SSC maintained the 10% general partner or controlling interest in SJTC and its focus remained on SSC's continued operations as a sawmill company dependent on SJTC for supplying the majority of its lumber.

Based on these factors, the Court concluded that SSC and SJTC "were so closely aligned and interdependent" that SJTC had to be valued based on its ongoing relationship with SSC, and thus, an income-based approach is more appropriate to value SJTC than a net asset value method. With this distinction, SJTC was more comparable to an operating company and less comparable to a traditional Timber Investment Management Organization (TIMO), Real Estate Investment Trust (REIT), or other holding or investment company.

Item 2: Reliance of Revised Management Projections in Valuation of SJTC and Impact of Economic Conditions

Both of Petitioner's experts relied on management projections in the underlying assumptions of their discounted cash flow (DCF) analyses to value SJTC. The original appraisal utilized management projections that were included in the prior annual report. For trial, Mr. Reilly utilized revised projections from April 2009 in his DCF analysis.

Respondent challenged the use of the revised projections, despite the fact that their own second expert, Mr. Schwab, also used the revised projections in his guideline publicly traded company method. He chose to average the revised projections with those from the most recent annual report.

The Court specifically noted the economic conditions at the date of valuation, highlighting the volatility during the recession years. As such, the Court determined the revised projections were the most current as of the date of valuation and included management's opinion on the climate of their market and operations. The impact of the current economic conditions is also referenced by the Court in another key takeaway that we will discuss later.

Item 3: Tax-Affecting Earnings in the Valuations of SJTC

Mr. Reilly computed after-tax earnings based on a 38% combined proxy for federal and state taxes. He further computed the benefit of the dividend tax avoided by the partners of SJTC, by estimating a 22% premium based on a study of S Corporation acquisitions. Respondent argued that since SJTC is a partnership, the partners would not be liable for tax at the entity level and there is no evidence that SJTC would become a C corporation. Therefore, respondent argued that the entity level tax rate should be zero.

The Court concluded that Mr. Reilly's tax-affecting "may not be exact, but is more complete and convincing than respondent's zero tax rate." The Court also noted that the contention from respondent on this tax-affecting issue seems to be more of a "fight between lawyers" as the criticism appeared more in trial briefs than in expert reports. In fact, respondent's expert, Mr. Schwab argued that tax-affecting was improper because SJTC is a natural resources holding company and therefore its "rate of return is closer to the property rates of return" rather than challenging the lack of an actual entity level tax.

Item 4: Market Approach for SJTC

The Court and respondent's expert agreed with Mr. Reilly's market approach for the valuation of SJTC. With little to no disagreement, the key takeaway here is on Mr. Reilly's analysis. The Court detailed the analysis by mentioning that Mr. Reilly selected six guideline companies. The Court also cited the analysis and reasoning behind Mr. Reilly's selection of pricing multiples slightly above the minimum indications of the guideline companies. Specifically, Mr. Reilly noted that SJTC's revenue and profitability for the most recent twelve months before the valuation date were below those of the guideline companies. Thus, he accounted for these differences in financial fundamentals in his selection of the guideline pricing multiples.

Item 5: Intercompany Debt between SJTC and SSC

Respondent argued that Mr. Reilly erred by excluding the receivable held by SSC and the corresponding liability of SJTC. Further, respondent contended that Mr. Reilly's treatment of SSC's receivable from SJTC as an operating asset, rather than a non-operating asset, reduced the value of SSC under his income approach since a non-operating asset was not added to that value.

On this issue, the Court weaved in earlier themes regarding the symbiotic relationship of the two companies and also the present economic conditions on the date of valuation to make its conclusion. The Court agreed with Mr. Reilly that the intercompany debt could be removed as a clearing account based on the idea that both companies operate as "simply two pockets of the same pair of pants." The Court rejected respondent's theories that this treatment of intercompany debt was only to avoid a negative asset valuation of SJTC and to reduce the value of SSC by not including the receivable as a non-operating asset.

The Court agreed with Mr. Reilly that the intercompany debt could be removed as a clearing account based on the idea that both companies operate as "simply two pockets of the same pair of pants."

The Court referenced the relationship of the two companies and how the joint credit agreements of the two companies were secured by SJTC's timberlands. The Court recognized that SSC could not have obtained separate third-party loans without the assistance of SJTC's underlying timberlands as collateral. A further detail of the two companies' relationship was revealed earlier in this decision. 2009 economic conditions also included subprime mortgage lending crises, particularly in the housing market. Around this time, SSC was anticipating a shift in the market from green lumber to dry lumber. Dry lumber production required SSC to build dry kilns and a boiler in a larger renewable energy plant project. Because of economic conditions, SSC was not able to obtain the construction loans to finance the renewable energy plant for itself or with another planned related entity. Instead, SSC was forced to borrow against the timberlands of SJTC.

Ultimately, the Court viewed the two companies (SSC and SJTC) as a single business enterprise and concluded that Mr. Reilly's treatment of the intercompany debt captured their relationship.

Item 6: Valuation of SSC – Treatment of General Partner Interest in SJTC

Respondent's criticisms of Mr. Reilly's analysis consisted of three items:

1) The treatment of Intercompany debt between the two companies
2) Tax-affecting earnings
3) The treatment of SSC's general partner interest. The Court handled the intercompany debt and tax-affecting treatment consitently with SJTC's valuation

Mr. Reilly captured the value of SSC's general partner interest in SJTC by projecting a portion of the expected partnership income in his projections. Specifically, Mr. Reilly projected $350,000 annually for SSC's general partner interest based on an analysis of the 5-year and 10-year historical distributions from SJTC.

Respondent claimed that this approach undervalued SSC's general partner interest by not considering its control over SJTC and treating it as a non-operating asset to be valued by the net asset value method.

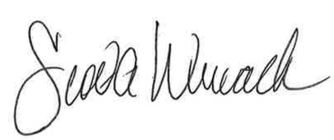
The Court concluded that SSC's general partner interest in SJTC is an operating asset, again citing the single business enterprise relationship between the two companies. Further, the value of SSC's general partner interest is best estimated by the expected distributions that it would receive.

Item 7: Buy-Sell Agreement Items

Although not directly discussed and cited in any of the Court's factors that we have discussed so far, the decision did highlight certain elements from SSC's and SJTC's buy-sell agreements as we noted. Both buy-sell agreements contained language that prohibited the sale of the entity or transfers within the units/shares that would jeopardize the current tax status of the Companies as an S Corporation (SSC) and Limited Partnership (SJTC), respectively. Both agreements called for discounts for lack of control, lack of marketability, and lack of voting rights of an assignee (where applicable) to be considered. Finally, both agreements stated that the valuations of the entities should consider the anticipated cash distributions allocable to the units/shares.

CONCLUSIONS

While the Court's decision to allow the tax-affecting of earnings (like in the Kress case) in the valuations of SSC and SJTC will dominate the headlines, there are additional takeaways from the case that impact valuations. Of note, the disparity in experience of the appraisers involved, consideration of the current economic conditions, and the purpose and nature of the business relationship of the two companies seemed to influence the Court's conclusions. Finally, the distinction and eventual valuation treatment of SJTC as an operating company rather than a holding company was of particular interest to us.



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The Moral of the Story

Passing the "Reasonable Certainty" Test in an Economic/Financial Damages Engagement

At times a business or a person can incur financial/economic damages created by the direct actions of a third party. The question is "how much damage was done?" and then "how does the damages expert support this impact with 'reasonable certainty'?"

What is reasonable certainty? The following is an extract from West's Encyclopedia of American Law, Edition 2 that summarizes some of these damages issues.

> *Speculative Damages: Alleged injuries or losses that are uncertain or contingent and cannot be used as a basis of recovery for TORT or contract actions.*
>
> *An individual cannot be compensated for mere speculative probability of future loss unless he can prove that such negative consequences can reasonably be expected to occur.* ***The amount of damages sought in a lawsuit need not be established with absolute certainty provided they are anticipated with reasonable certainty. Where the plaintiff cannot establish with reasonable certainty that any injury resulted from the act of omission complained of, he might be entitled to recover nominal damages. Mere uncertainty concerning the measure or extent of damages does not preclude their recovery in either tort or contract cases.***
>
> *When an individual seeks to recover Compensatory Damages, she must establish evidence of their nature and extent as well as some data from which they can be calculated. No extensive recovery can be founded upon guesswork alone. Recovery must be backed with evidence that justifies an inference that the damage award is a fair and reasonable form of compensation for the injury incurred. In addition, when compensatory damages can be proved with approximate accuracy and determined with some degree of certainty, it is essential that they be so proved. If evidence of damage from various causes exists, but no evidence is available as to the portion of damage that the defendant caused, the proof is too uncertain to allow the jury to award damages against the defendant. (Emplasis added)*
>
> West's Encyclopedia of American Law, Edition 2. © Copyright 2008 The Gale Group, Inc. All rights reserved.

Does the damaged party have to have a bullet-proof forecast or analysis to recover any damages? The answer is "No," but the damage claim needs to be supported with reasonable certainty. There is no 100% certain way to prove damages, but let me provide an example of a case we were involved in recently that resulted in a substantial settlement for our client.

While employed by another company ("Oldco"), the defendants started a business ("Newco") using a secret process formula to make a product that was in high demand and did not have any direct competition. When they were discovered by their employer operating this business, they were terminated. Oldco brought suit against Newco alleging that the owners of Newco stole their intellectually property in order to develop this secret process formula.

Oldco and Newco continued to operate successfully and by the time the lawsuit was about to go to trial, Newco had been in business for three years. In the latest year, Newco grew over 100% in revenue. Newco's profits, however, were masked by paying exorbitant salaries to the owners along with extraordinarily expensive employee benefits. As a consequence, even though sales were expanding exponentially, profits were minimal. Newco's expert used this low level of profits in his analysis, comparing this profit level to businesses without similar semi-monopolistic products. He opined that this rapidly growing business was only worth book value, which was nominal.

Oldco's expert, Mercer Capital, dug deeper. We analyzed Newco's historical records and adjusted the cost of goods, salaries, and benefits to market levels and supported a profit margin of over 15% of revenues. We then forecasted growth (with a declining growth rate) for three years, and capitalized the terminal year creating a value indication much higher than the opposing expert. Our conclusion was over ten times the value claimed by the opposing expert.

After depositions, Newco agreed to pay a substantial settlement to our client.

This is an example of utilizing common sense, financial analytical skills, and applying market level adjustments to provide an answer that is likely to pass any reasonable certainty test.

The Moral of the Story

It is vital that your business damages expert understand the concept of reasonable certainty, be analytically astute, and be able to bring common sense and experience to any damages engagement.

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Considering a C Corp Conversion?

Years ago it would have been nearly unthinkable to convert an S corporation to a C corporation for tax purposes. Prior to the Tax Cuts & Jobs Act (TCJA) of 2017, C corporations were less tax efficient than S corporations and other pass through entities because C corp earnings were taxed at the corporate level and again on dividend payments to shareholders. S Corps, on the other hand, do not pay corporate taxes, so their earnings are taxed in accordance with their shareholders' personal tax rates and ownership position.

TCJA's passage in late 2017 lowered the federal corporate tax rate from 35% to 21% with more modest decreases in personal tax rates. This change diminished much of the relative tax efficiency of S corps over C corps, so many S corps have recently converted to C corps to take advantage of the lower corporate tax rate.

Even with the lower corporate tax rate, there's a lot to consider before making a potential C corp election. Depending on your firm's dividend policy and ability to qualify for the QBI deduction, it may not make economic sense (or even be possible) to make the conversion. We'll be happy to wade you through the nuances to see if a C election actually makes sense for you and your firm.

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Recent Transactions

CapStar Bank
Nashville, Tennessee

has agreed to acquire

The Bank of Waynesboro
Waynesboro, Tennessee

Mercer Capital rendered a fairness opinion on behalf of the Special Committee of Independent Directors of the Bank of Waynesboro

– January 2020 –

First McMinnville Corporation
McMinnville, Tennessee

has agreed to acquire

Cumberland Bancshares, Inc.
Hartsville, Tennessee

Mercer Capital served as financial advisor and provided a fairness opinion to First McMinnville Corporation

– October 2019 –

FB Financial Corporation
Nashville, Tennessee

has agreed to acquire

FNB Financial Corp.
Scottsville, Kentucky

Mercer Capital served as financial advisor and provided a fairness opinion to FNB Financial Corp.

– September 2019 –

Hernandez Consulting & Construction
New Orleans, Lousiana

has established an Employee Stock Ownership Plan

Mercer Capital served as a financial advisor to the ESOP's Independent Trustee in connection with the transaction.

– July 2019 –

Simmons Bank
Pine Bluff, Arkansas

has agreed to acquire

Landmark Bank
Columbia, Missouri

Mercer Capital rendered a fairness opinion on behalf of Simmons First National Corp.

– July 2019 –

Pinnacle Financial Partners
Nashville, Tennessee

acquired

Advocate Capital, Inc.
Nashville, Tennessee

Mercer Capital served as exclusive financial advisor to Advocate Capital, Inc.

– July 2019 –

DentaQuest, LLC
Boston, Massachusetts

has agreed to acquire

DCP Holding Company
Sharonville, Ohio

Mercer Capital served as financial advisor and rendered a fairness opinion on behalf of DCP

– March 2019 –

Burgers' Smokehouse
California, Missouri

acquired

Clifty Farm Country Meats
Paris, Tennessee

Mercer Capital served as financial advisor on behalf of Clifty Farm Country Meats.

– March 2019 –

Motor City Electric Co.
Detroit, Michigan

has established an Employee Stock Ownership Plan.

Mercer Capital served as a financial advisor to MCE and its shareholders in connection with the transaction.

– May 2018 –

Planning for Estate Taxes To-Do List

Orginally published on Mercer Capital's **Family Business Director blog**

Family business shareholders are uniquely burdened by the prospect of having a substantial estate tax liability despite potentially having most of their wealth tied up in illiquid stock. The following to-do list includes important tasks for family business directors seeking to help prevent, or at least minimize, unhappy surprises with regard to the estate tax. While the estate tax is an obligation of the shareholders rather than the family business itself, if the shareholders are not adequately prepared to manage their emerging estate tax liabilities, there can be adverse consequences for the sustainability of the family business.

Review the Current Shareholder List/ Ownership Structure for the Family Business

In family businesses, the lines between family membership, influence, employment, economic benefit from the business, and actual ownership can be blurry. Based on the current shareholder list, are there any shareholders that – were the unexpected to happen – would be facing a significant estate tax liability? Are there potential ownership transfers that would not only alleviate estate tax exposure, but also accomplish broader business continuity, shareholder engagement, and family harmony objectives?

Obtain a Current Opinion of the Fair Market Value of the Business at the Relevant Levels of Value

A current valuation opinion is essential to quantifying existing exposures as well as facilitating the desired intra-family ownership transfers. If you don't have a satisfactory, ongoing relationship with a business appraiser, the first step is to retain a qualified independent business valuation professional (we have plenty to choose from here). You should select an appraiser that has experience valuing family businesses for this purpose, has a good reputation, understands the dynamics of your industry, and has appropriate credentials from a reputable professional organization, such as the American Institute of Certified Public Accountants (AICPA) or the American Society of Appraisers (ASA).

The valuation report should demonstrate a thorough understanding of your business and its position within your industry. It should contain a clear description of the valuation methods relied upon (and why), valuation assumptions made (with appropriate support), and market data used for support. You should be able to recognize your family business as the one being valued, and when finished reading the report, you should know both what the valuation conclusion is and why it is reasonable.

The appraisal should clearly identify the appropriate level of value. If one of your family shareholders owns a controlling interest in the business, the fair market value per share of that controlling interest will exceed the fair market value per share of otherwise identical shares that comprise a non-controlling, or minority, interest. Having identified the appropriate level of value, the appraisal should clearly set forth the valuation discounts or premiums used to derive the final conclusion of value and the base to which those adjustments were applied.

> When you are reading the valuation report, you should be able to recognize your family business as the one being valued.

For example, many common valuation methods yield conclusions of value at the marketable minority level of value. In other words, the concluded value is a proxy for what the shares of the family business would trade for if the company were public. Some refer to this as the "as-if-freely-traded" level of value.

- If the subject interest is a minority ownership interest in your privately held family business, however, an adjustment is required to reflect the lack of marketability inherent in the shares. All else equal, investors desire ready liquidity, and when faced with a potentially lengthy holding period of unknown duration, investors impose a discount on what would otherwise be the value of the interest on account of the incremental risks associated with holding a nonmarketable interest. In such a case, the appraiser should apply a marketability discount to the base marketable minority indication of value.

- On the other hand, if the subject interest represents a controlling interest in the family business, a valuation premium may be appropriate. The "as-if-freely-traded" value assumes that the owner of the interest cannot unilaterally make strategic or financial decisions on behalf of the family business. If the subject interest does have the ability to do so, a hypothetical investor may perceive incremental value in the interest. Such premiums are not automatic, however, and a discussion of the facts and circumstances that can contribute to such premiums is beyond the scope of this post.

We occasionally hear family shareholders express the sentiment that, since gift and estate taxes are based on fair market value, the lower the valuation the better. This belief is short-sighted and potentially costly. For one, gift and estate tax returns do get audited, and the "savings" from an artificially low business valuation can evaporate quickly in the form of incremental professional fees, interest, penalties, and sleepless nights when the valuation is exposed as unsupportable. Perhaps even more importantly, an artificially low business valuation introduces unhealthy distortion into ownership transition, shareholder realignment, shareholder liquidity, distribution, capital structure, and capital budgeting decisions. The distorting influence of an artificially low valuation can have negative consequences for your family business long after any tax "savings" become a distant memory. While the valuation of family businesses is always a range concept, the estimate of fair market value should reasonably reflect the financial performance and condition of the family business, market conditions, and the outlook for the future.

Identify Current Estate Tax Exposures and Develop a Funding Plan for Meeting Those Obligations when They Arise

With the appraisal in hand, you can begin to quantify current estate tax exposures and, perhaps more importantly, begin to forecast where such exposures might arise in the future if expected business growth is achieved. Are shareholders prepared to fund their estate tax liability out of liquid assets, or will shareholders be looking to the family business to redeem shares or make special distributions to fund estate tax obligations? If so, does the family business have the financial capacity to support such activities? The most advantageous time to secure financing commitments from lenders is before you need the money. What is the risk that an estate tax liability could force the sale of the business as a whole? If so, what preliminary steps can directors take to help ensure that the business is, in fact, ready for sale and that such a sale could occur on terms that are favorable to the family?

> The most advantageous time to secure financing commitments from lenders is before you need the money.

Identify Tax and Non-Tax Goals of the Estate Planning Process

As suggested throughout this post, while prudent tax planning is important, it can be foolish to let the desire to minimize tax payments completely overwhelm the other long-term strategic objectives of the family business. If there was no estate tax, what evolution in share ownership would be most desirable for your family and business? The overall goal of estate planning should be to accomplish those transfers in the most tax-efficient manner possible, not to subordinate the broader business goals to saving tax dollars in the present.

The professionals in our family business advisory services practice have decades of experience helping family businesses execute estate planning programs by providing independent valuation opinions. Give one of our professionals a call to help you get started on knocking out your to-do list today.

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Mercer Capital in the News

Dallas and Nashville Offices Have Moved

Nashville Office:104 Woodmont Blvd. Suite 200 Nashville, Tennessee 37205
Dallas Office:12221 Merit Drive, Suite 975 Dallas, TX 75251

Z. Christopher Mercer, FASA, CFA, ABAR, Authors Article in the Extraordinary Banker Magazine

Chris authored the recent article "*How Can You Use Bank Valuation Concepts to Influence How You Think and Lead*" in **Extraordinary Banker Magazine**, Issue No. 28.

Mercer Capital participates in a Business Valuation 101 CLE Session

The **Memphis Bar Association** sponsored a CLE event on Friday, December 13th entitled "*Business Valuation 101."* Mercer Capital professionals **Karolina Calhoun, CPA/ABV/CFF** and **David W. R. Harkins** were the speakers.

MAR 5 — **Travis Harms, CFA, CPA/ABV** - "*Family Culture and Dividend Policy,*" Transitions Spring 2020 (Presented by Family Business Magazine), Tampa, Florida

JAN 27 — **Karolina Calhoun, CPA/ABV/CFF** - "*Business Valuations and Quality of Earnings in M&A Transactions,*" Baker Donelson Corporate Finance & Securities Practice Group.

JAN 21 — **Karolina Calhoun, CPA/ABV/CFF** - "*Business Valuations and Quality of Earnings in M&A Transactions*" at the Financial Executives International (FEI), Memphis, Tennessee.

DEC 6 — **Scott A. Womack, ASA, MAFF** - "*Critical Issues in Divorce Valuations,*" The Family Law Conference for Tennessee Attorneys, Nashville, Tennessee.

NOV 13-15 — **Timothy R. Lee, ASA** attended the **Employee Owned 2019 Conference and Trade Show** sponsored by the ESOP Association in Las Vegas, NV. Tim moderated a panel, "*Negotiating Protections for the ESOP (or Seller) After the Sale*" with **C. Grant McCorkhill** (Holland & Knight LLP) and **Sharon B. Hearn** (Krieg DeVault LLP).

Mercer Capital

Mercer Capital's ability to understand and determine the value of a company has been the cornerstone of the firm's services and its core expertise since its founding.

Mercer Capital is a national business valuation and financial advisory firm founded in 1982. We offer a broad range of valuation services, including corporate valuation, gift, estate, and income tax valuation, buy-sell agreement valuation, financial reporting valuation, ESOP and ERISA valuation services, and litigation and expert testimony consulting. In addition, Mercer Capital assists with transaction-related needs, including M&A advisory, fairness opinions, solvency opinions, and strategic alternatives assessment.

We have provided thousands of valuation opinions for corporations of all sizes across virtually every industry vertical. Our valuation opinions are well-reasoned and thoroughly documented, providing critical support for any potential engagement. Our work has been reviewed and accepted by the major agencies of the federal government charged with regulating business transactions, as well as the largest accounting and law firms in the nation on behalf of their clients.

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