

Divorce and its Impact on the Family Business – II

In cases of divorce where the couple owns a business, the value and management of the business must be decided in the divorce process. The court will determine how the value of the business will be divided between the spouses. There can be problems in valuing a family business, unlike other assets. Your family law attorney will retain an accountant with business valuation experience to aid in this process.

After the business is valued, it is generally awarded to one of the spouses; if the business was managed during the marriage by one of the spouses, it is usually awarded to that spouse and there must be an off-setting award of other assets, or a business “buy out”, to arrive at an equitable division of the total estate.

In cases where the business is the sole significant asset, the court may, based on the length of the marriage, award long-term maintenance to one spouse and the business to the “managing” spouse. Spousal maintenance, where appropriate, is to be considered simultaneously with the property award because the court must balance and equalize the family’s income for a period of time.

The larger the size of the marital estate, the more likely the court will be able to arrive at an equal distribution. Many factors affect the final division of the marital estate, and the value and productivity of a family business is but one such factor.