

Ask a Family Law Attorney

Written by Keith Berkshire, Certified Family Law Specialist, Rose Law Group, pc.

Q: I run a small consulting firm with ten employees, and am going through a divorce. Does my firm have value as an asset?



A: Your business absolutely very well could have a value, and half of which you may owe to your spouse. Don't underestimate the worth of your business just because it is a sole practitionership, or a small firm with only a few employees. It can be just as valuable, if not more valuable, than a retail business.

To begin, there are various methods of valuing a business as part of a marital estate. In addition to market value (ie sale of the business) and future earnings, there is something called goodwill, which includes the good name of the firm, its reputation, and its customer and client contacts. This could also include the referral base of the firm. The value of the goodwill can be substantial in many circumstance. Even if your firm does not have many hard assets (copy machines, computers, etc.), the goodwill alone can make it a very valuable asset.

Remember, as a community-owned entity, your business will be valued as part of the marital estate and subject to equitable division upon divorce. Oftentimes, one spouse's business can be the single biggest asset in the marriage, even moreso than the house. It is obvious businesses like a frozen yogurt shop or a machine factory have tangible value, but it is easy to overlook things like a plastic surgery practice, a boutique law office, or a marketing firm. Keep in mind the business doesn't need a bunch of employees, a storefront or stock to be a valuable asset. Understanding the business, and using the correct experts in a divorce can ensure that you don't pay more than necessary for your business.

In addition to ensuring that your business is attributed with the correct value, you also want to ensure that any separate component of the business value remain separate. If you started the business prior to marriage, and even if it changes names or locations after marriage, there may be a separate value to the business. And there is no point in paying out separate property to your spouse, who is only entitled to their portion of community property.

Keith Berkshire is an attorney with Rose Law Group, pc, in Scottsdale, specializing in family law. He is a Specialist in Family Law certified by the State Bar of Arizona, and can be contacted at 480-291-0736 or at kberkshire@roslawgroup.com.

This article does not constitute as legal advice nor does it create an attorney-client relationship. Keith Berkshire, Certified Family Law Specialist, Rose Law Group, pc. Rose Law Group pc is a full service and, real estate law firm with 27 areas of focused practice including one of the State's leading renewable energy practice groups; an unmatched lobbying, land use and zoning practice; one of the State's few certified legal specialists in family law; a robust real estate transaction, tax and project finance department; along with estate/special needs planning, asset protection, medical marijuana, equine law, employment law and high profile and business litigation among others; Rose Law Group is consistently involved in some of the State's biggest and most important issues from representing County Sheriffs on Senate Bill 1070 litigation to revolutionizing the provision of distributed solar generation in Arizona and defending the State's rights in litigation involving medical marijuana. Learn more at RoseLawGroup.com

* Laura Bianchi is head of RLG's Estate Planning and Asset Protection Department. She focuses her practice on traditional estate, special needs, domestic partnership, and business succession planning, as well as general employment and medical marijuana law.

* Carissa Seidl practices in the areas of family law, juvenile law and criminal law at RLG.

* Keith Berkshire is one of only 70 Certified Specialist In Family Law, State Bar of Arizona and is well versed in all areas of family law, including appellate practice.