

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.

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