
Businesses

A property settlement is often more complicated if one or both of the parties have interests in a business or businesses. The most common area of dispute is its value.

Valuing businesses

In determining an appropriate property settlement, the assets of the parties must be identified and valued. A business or an interest in a business may be hard to value. For example:

- A share in a family company might have limited market value to an independent purchaser, but the "real" value of the interest to the owner may be significant
- A business may have minimal assets, but might generate considerable income
- How is goodwill valued?
- How are company loans treated?

If parties cannot agree on the value of a business or an interest in a business an expert is usually engaged to value it. The valuation method used depends on the type of business.

Injunctions

The court has the power to grant an injunction to stop a party dealing with business assets pending the resolution of a family law dispute. For example, a court can order that a party be restrained from taking action to dispose of business assets outside the ordinary course of business pending the resolution of the family law dispute.

The court has the power, subject to various limitations, to make orders that are directly binding on third parties, such as companies or business partners of a party to the marriage. For more information about orders affecting third parties, see our Third Parties and Property Disputes pages.

Tax consequences

The division of property, particularly if businesses, companies and trusts are involved, can have significant taxation consequences. Expert advice is important to ensure the tax consequences there are known and the settlement is structured in the most tax effective way.

We can help to identify the taxation consequences of a proposed settlement and work with your accountants and tax advisers to structure a tax effective property settlement.