

FSAT NEWS

FINANCIAL SERVICES ADVISORY TEAM

SPRING 2018

Welcome to our 20th issue of FSAT News, a newsletter published by DJB's Financial Services Advisory Team (FSAT) to better inform and help you manage your business's potential.

If you wish to receive further information regarding the services discussed in this issue, please contact a member of our team:

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Shareholder Disputes Are Almost Inevitable...Be Prepared!

We are continually surprised by the number of privately held companies that do not have a documented plan to avoid or reduce future disputes among shareholders. Whether your business is family owned or has a number of arms-length shareholders you need to consider implementing a Shareholders' Agreement to address one of many triggering events that will almost surely affect your business at some point.

The answer to the question "Why doesn't your business have a Shareholders' Agreement?" is almost always something to the effect of "We get along and agree on everything". The other reason often given is "We are all family members so we don't need one".

What people forget, or choose to ignore, is that during periods of time when the business is doing well and everyone is actively involved, major disputes rarely



occur. However, what happens when one or more shareholders approach their retirement date? What if they start reducing their workload or effectiveness over time? Perhaps the business takes a downward turn. Invariably this causes internal soul searching within the business that may shed light on one or more shareholders no longer pulling their weight. These are only a few examples of issues that can give rise to disagreement among shareholders.

You also need to consider that triggering events are not always discretionary. The death or disability of a shareholder can be difficult to deal with as the person

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affected may no longer be capable of speaking for themselves and you are left dealing with an estate executor or power of attorney.

These examples can affect any business. It doesn't really matter if the parties are family or deal at arms-length; if they all have equal ownership positions or there exists majority and minority shareholders; if they are all active in the business or some are passive. The answer is to plan ahead. Discuss the issues that you may face, determine how you wish to deal with them, and document that plan in a Shareholders' Agreement.

What are some of the issues that you need to consider? Many come from the examples noted above:

- If you have minority shareholders, how are they protected in terms of future dividends; share redemptions; or purchase and sale of the majority's shares?
- How are you going to deal with future shareholder retirements? Think of issues such as timing; purchase vs redemption of shares; pricing; terms and conditions for payout.
- What do you do in the event of the death or disability of a shareholder? Once again you need to consider things such as purchase vs redemption of shares; pricing; terms and conditions for payout. The implementation of life insurance or disability coverage will certainly have an impact on the funding available and should be considered.
- How are we going to value the shares in situations other than an outright purchase and sale? Potential solutions include the use of a formula approach; the appointment of a Chartered Business Valuator at the time of

the event; or agreement among the shareholders as to the business value at some predetermined interval, generally coinciding with the annual meeting.

- How do you provide liquidity for shareholders while restricting their ability to market their shares outside of the existing group of shareholders? Clauses governing this area are generally referred to using terms such as Right of First Refusal; Piggy-Back; and Drag-Along.

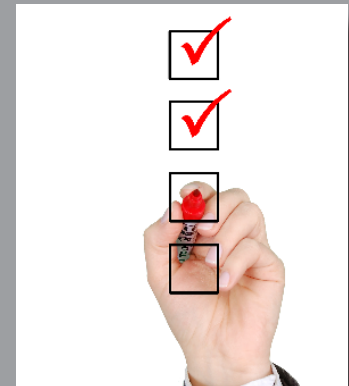
Since this is not something business owners do on a regular basis you are going to need professional assistance to guide you through the process. A business coach experienced in ownership transition issues can be invaluable. Other professional help you will need could come from your external accountant, a Chartered Business Valuator, or your Company's legal counsel.

As is the case in virtually all areas of business, the answer to any issue is to plan ahead and prepare. Are you ready?



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FSAT SERVICES



- Assistance with Business, Acquisitions & Divestitures, Including Due Diligence & Quality of Earnings Reports
- Collaboratively Trained Professionals
- Child & Spousal Support Income Calculations
- Economic Loss Calculations regarding Motor Vehicle Accidents, Slip and Fall, Medical Malpractice and Dependency Claims
- Experienced Expert Testimony
- Forensic Accounting
- Income Replacement Benefit (IRB) & Other Accident Benefit (AB) Calculations
- Long-Term Disability Calculations
- Matrimonial Disputes
- Mediation Services
- Shareholder Agreements & Dispute Resolution
- Value of Future Care Cost Analysis
- Wrongful Dismissal Claims

Measuring Economic Loss When Still Working

When a person has been injured in an accident, they can often recover damages from the person responsible for causing their injuries. One head of damages to be considered is the past and future loss of employment income that the person has suffered, or will suffer due to their injuries.

We generally try to approach these calculations by determining what the person's income would have been, if not for their injuries, and compare that to what their income will now be (if any), given their injuries. However, the extent of the person's injuries, and how it will affect their future earning potential, is not always known. Examples could include:

- A student who has not yet begun to work, but is expected to enter the workforce, but with some limitations.
- A person who will be unable to return to their previous employment, but will be able to retrain and work in some other occupation, to some degree.
- A person who will be able to continue to work in their previous employment, but to a lesser degree than they could before the accident.

In such situations, it is often assumed that the person will suffer an ongoing future loss of competitive advantage, or loss of earning capacity, over the remainder of their working life, on the basis that, due to their injuries, they:

- i. Are now less marketable or attractive to potential employers;
- ii. Have lost the ability to take advantage of all job opportunities that might otherwise have been open to them had they not been injured; and
- iii. May experience periods of absence from the workforce that they would otherwise not have experienced, were it not for their injuries.

Based on Statistics Canada data, a partially disabled worker is generally:

- More likely to be unemployed at

any point in time;

- Less likely to participate in the work force;
- Likely to earn less than people without disabilities who have similar qualifications;
- More likely to work on a part time basis, due to their disability;
- Likely to face an increased risk of being forced to leave the workforce early.

To estimate the effect of a partial disability on a person's future employment income, we often calculate the loss based on a percentage of full-time employment. For example, if it is assumed that the person will now be able to work only 15 to 20 hours per week, we may calculate the person's future loss to be the appropriate percentage of the anticipated earnings for comparable full-time employment.

However, many times, such a specific estimate of lost hours, is not yet known. The person expects to be able to work full-time, but as noted above, they have lost opportunities to pursue certain work, or they may be out of the workforce from time to time. In such situations, we often refer to statistical data regarding the 'wage gap' between people with disability and those without.

Over the years, Statistics Canada has conducted various surveys on disability and activity limitations, the most recent two being the 2006 Participation and Activity Limitation Survey (PALS), and the 2012 Canadian Survey on Disability (CSD).

According to studies done using this data, the wage deficit for a person with a mild disability is about 10% to 16% of the earnings of a person without a disability. That is, on average, over the working life of the individual, a person with a mild disability will earn about 84% to 90% of a person without a disability, in a comparable position.

Therefore, to estimate a person's loss of future employment income, we can apply these percentages against the average earnings for their anticipated

occupation. For example, if a person without a disability would be expected to earn \$50,000 per year in a specific occupation, the loss for a person with a mild disability working in that occupation could be estimated to be between \$5,000 to \$8,000 (10% to 16% of \$50,000) per year.

Of course, each situation should be considered based on the specific background and circumstances in that case. Ultimately, calculating an economic loss is a complicated process with each case presenting its own set of unique issues. Our Financial Services Advisory Team (FSAT) has significant experience preparing these calculations. If you have any questions or require assistance with a calculation, please contact a member of our team.



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New Life Tables

Good News – According to the new life tables released from Statistics Canada (based on 2013-2015 data), we are living about 1 year longer than we were just 5 years ago. According to the 2013-2015 life tables, the life expectancies for males and females in Ontario are now 80.4 and 84.4 years respectively. Well, so much for gender equality!

DJB Contacts Interested in Buying & Selling Businesses - February 9, 2018

We have clients and contacts that are interested in buying or selling businesses. If you see a possible fit, please contact us so that we can arrange an introduction for you.

BUYERS

- ▶ Private Equity Group that buys majority positions in Canadian companies with EBITDA > \$2m for long-term hold and growth.
- ▶ Looking for a cleaning/vacuuming (not janitorial) company in Southern Ontario.
- ▶ Private Equity Group providing capital and strategic partnerships to \$.5 to \$3.0m EBITDA businesses in Cda, primarily Ont and BC.
- ▶ Interested in an owner operator retirement situation with approx \$250k to lever with VTB for acquisition.
- ▶ \$500k to \$4m, in any industry, will consider partnership and investment opportunities, including managing or running a business with a minority stake.
- ▶ Two entrepreneurs backed by 16 investor fund looking for \$1.5m+ EBITDA and => 20% ROC.
- ▶ Wholesaler of welding supplies interested in similar businesses in Canada or USA with an EV up to \$5m.
- ▶ Foreign (US) shareholders' investment company makes acquisitions across North America in the manufacturing and agricultural sectors (large farming corporations) with an EV up to \$5m.
- ▶ Food Producer (Pasta/Pizza sauces, Salsa, etc.) and Distributor with \$4.5m sales looking to buy complementary profitable food production company with about \$1m in sales.
- ▶ Looking to grow by acquiring HVAC or related companies in the \$1-10M sales range in the Hamilton/Halton/Niagara regions.
- ▶ Operates an importing business specializing in household (ie - kitchen) gadgets sold to grocery and box store chains. Interested in complementary businesses as well as Hamilton based real estate investment opportunities.
- ▶ Diversified asset management firm focussing particularly on the technology, media, service, renewable energy, real estate and hospitality sectors.
- ▶ Entrepreneurial investment firm seeking to acquire and grow a small to

medium-sized business. Looking for a company with annual revenues from \$5 to \$30 million and EBITDA from \$1 to \$5 million, anywhere in Canada.

- ▶ Retired individual looking for business to run part time possibly involving his son.
- ▶ Potential client with \$25m annual revenue in mechanical systems for industrial, commercial and institutional construction looking to acquire complementary businesses in SW Ontario.
- ▶ Investment partnership acquiring Canadian companies with \$1m to \$6m EBITDA.
- ▶ Acquires controlling interests in Canadian companies with \$1m to \$5m EBITDA.
- ▶ Manufacturing business within 100 km of Hamilton, sales \$5m to \$10m, EV \$2m to \$3m, could buy in over time or take a significant ownership % and a senior management role.
- ▶ Up to \$7m to invest in auto dealership, wholesale distribution of electrical or HVAC and/or businesses that serve the construction or manufacturing industries.
- ▶ Broker looking for larger real estate offices for acquisition. Would consider any office over 15 people in the Kitchener, Guelph, Milton, Mississauga or Brampton markets and any office with over 50 agents in the Burlington, Hamilton or Oakville market places.
- ▶ Two partner firm in the GTA looking to acquire \$3m to \$10m EV businesses in the GTA/Hamilton area.
- ▶ Interested in troubled situations, successions or high growth companies in distribution or manufacturing.
- ▶ \$1.5m to lever into a business acquisition.
- ▶ Private Holdco looking for investments in the GTA in the industrial manufacturing or services industry. Revenue > \$8m and pays 3 to 4 times EBITDA.
- ▶ Lives in N-O-T-L with approx \$250k cash to lever into business acquisition.
- ▶ Investment group, enterprise value up to \$12m, within 90 minutes of Kitchener.
- ▶ Investment group, Oakville or West GTA, EV \$1m to \$10m.
- ▶ Investment group with approx \$10m equity to place.

- ▶ Marketing individual looking to become co-owner/manager in small company.
- ▶ Private equity firm, seeking \$10m to \$15m enterprise value, 100% sale, owner-operator looking to transition out, Niagara region.
- ▶ Seeking an enterprise with a strategic fit to their business, serving Industrial Distributors, with sales in the range of \$1m to \$20m.
- ▶ Already made one acquisition in the food service industry and are interested in related industry and/or other good opportunities.
- ▶ Historic earnings with potential, located in the Toronto through St. Catharines area, existing management and price of \$1m - \$3m.
- ▶ Anything profitable. Niagara Falls to Oshawa. Up to \$1m.

SELLERS

- ▶ Medical-legal personal injury graphics business. Sales approx \$1.2m with 10 to 15% pre tax income.
- ▶ Custom brokerage. Sales approx \$900k p.a. Asking \$1.5m for 100% of shares.
- ▶ Security systems and equipment. Sales approx \$1.6m and EBITDA approx \$250k.
- ▶ Engaged in the development, training, and sale and support of business applications software. Revenue of approximately \$4m per annum.
- ▶ Manufacturing business in the Kitchener/Waterloo/Guelph area with approx \$3m in sales and EBITDA of \$250 - \$500k.
- ▶ Retail pet food and supplies store.
- ▶ Corporate group includes a poultry wholesale, distribution and refrigerated logistics company and a boutique retail food store company. Total sales \$7m.
- ▶ Exterior building, vehicle, driveway, sidewalk cleaning service with 2 self contained trucks. Annual revenue approx \$165k.
- ▶ Engaged in removal & disposal of liquid waste & the performance of environmental audits. Sale of 50% interest by one of two shareholders.

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