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FSAT NEWS

FINANCIAL SERVICES ADVISORY TEAM

FALL/WINTER 2020

Welcome to our 25th 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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Corporate Reorganizations and Business Valuations



Tax planning can involve a long-term strategy to structure investments and business assets in a way to defer or ultimately reduce the overall taxes that will need to be paid.

When working with an experienced tax specialist there are several options that can be considered depending on specific factors such as the availability and need for cash, family needs, life insurance, nature of the assets, transferring ownership to the next generation, charitable giving, and in some cases a family legacy.

Business owners often will need to address a larger number of tax considerations because their assets tend to be more complicated. In many cases, business assets are less marketable or less liquid than a portfolio of marketable securities traded in an active stock market. One of the more common tax deferral options is an estate freeze or corporate reorganization. An estate freeze fixes the value of the

business at a point in time, and as a result, the capital gains tax payable on death. In a simple estate freeze, the tax payer exchanges an investment for fixed value preferred or special shares. This involves transferring certain assets (e.g., depreciable property, eligible capital property, inventory, etc.) into a corporation in exchange for non-growth shares worth equal value, or if the business is already incorporated it involves transferring or exchanging shares of the corporation at their fair market value.

There are various considerations under the Income Tax Act that need to be factored into a properly executed estate freeze and your tax advisor will guide you through the process. However, one of the key items that the Canada Revenue Agency (CRA) will potentially assess is whether the property was transferred at fair market value. This is because the tax payer/parties involved are not considered

(article continued on page 2)

2 | Discount Rate Remains at 0% for 2021

3 | Accident Benefits - Are you Adequately Covered?

5 | Valuation Date - An Important Consideration

6 | Spotlight - Brent Pyper

7 | Buy & Sell List - October 2020

[article continued from page 1]

to be acting at arm's length. As a result, a business valuation prepared by a Chartered Business Valuator can be used to support the fair market value elected in the transaction. Chartered Business Valuators are also familiar with complex assets such as life insurance, embedded taxes, intangible assets, real estate, and holding companies, as well as industry specific considerations.

While the CRA does not specifically require that a business valuation be prepared by a Chartered Business Valuator, it does however, require that a reasonable attempt at valuation be performed. The CRA may also request a copy of the valuation that was performed to assess whether it properly supports the transaction.

If the transaction is not properly supported from a tax and valuation perspective, negative tax consequences and/or penalties may apply and the entire purpose of the corporate reorganization may be ineffective. As a result, a business valuation prepared by a Chartered Business Valuator can help to support your transaction to achieve your goals and long-term plan.

Based on the current economic environment and COVID-19 impact, some tax payers are now considering whether a "refreeze" of a previously undertaken estate freeze could be appropriate. This may be the case where preferred or special shares issued previously are now worth considerably less than their original value. Under a refreeze, these shares would be revalued at the current fair market value that reflects the corporate/industry outlook and market factors. In this case a careful review of corporation's share structure would be required.

DJB has experienced Business Valuators and Tax professionals that can assist, if you are considering the above planning. Please contact us if you have any questions or would like to discuss how we may be able to assist.

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Discount Rate Remains at 0% for 2021



Each year the Ministry of the Attorney General of Ontario publishes the discount rates to be used for the calculation of awards for future pecuniary damages in Ontario under rule 53.09 of the Rules of Civil Procedure. The rates are based on calculations set out in the Rules of Civil Procedure.

For trial scheduled to commence after January 1, 2021, the rates are as follows.

- For amounts expected to increase with inflation (e.g. salary), the discount rates to be used remain at 0% for the first 15 years and 2.5% thereafter.
- For amounts that are static (that don't increase with inflation), such as Income

Replacement Benefits (IRBs) or many Long-Term Disability benefits, a higher discount rate would be warranted. Based on the Attorney General published inflation rates, the discount rates for such amounts will be 1.0% for trials beginning in 2021, down from 1.7% for 2020. As this discount rate has decreased, the present value amount will be slightly higher under the new rates.

Our Financial Services team has significant experience preparing these present value calculations. If you have any questions or require assistance with a calculation, please contact a member of our team.

Accident Benefits – Are You Adequately Covered?



If you are injured in a motor vehicle accident (MVA) you may suffer significant economic losses due to loss of income and/or by incurring costs for medical, rehabilitation, attendant care and home maintenance services and devices.

In Ontario, regardless of whose fault the accident was, you can make a claim for these losses (that aren't covered by OHIP) through your insurance company. This is commonly referred to as the "no-fault" insurance system. This does not mean that nobody is at fault, or that nobody will be found to be at fault. But rather, it means that everyone injured in an MVA (drivers, passengers, pedestrians) go through their own insurance company to make a claim for damages. (The driver's insurer would also cover passengers and pedestrians who do not have their own coverage.)

The amounts you are entitled to recover through your automobile insurance in Ontario are limited under specific regulations set out in the Statutory Accident Benefits Schedule (SABS) legislation of the Insurance Act. These limits will be discussed below, but as will be seen, under many situations the benefits available will not be sufficient to cover your

loss. In such situations, if the accident is found to be the fault of another person/party, you may be able to sue that party for the additional losses. However, lawsuits can be costly, risky, and lengthy. Although claims under your insurance policy should provide you with cash on a much faster timeframe, they are not specifically designed to 'make you whole' (even to the extent that cash alone can do so), even when additional optional insurance benefits are purchased.

The amount of benefits available can also be very different depending on whether you have suffered a minor injury, a non-catastrophic impairment, or a catastrophic impairment.

Income Replacement Benefits (IRBs)

IRBs are designed to replace lost earnings, whether employed or self-employed. The amount of IRBs you are entitled to is based on specific formula set out under the SABS legislation. The formula has changed over the years, with the most recent significant change made effective for accidents on or after September 1, 2010. Although the legislation contains numerous complicated rules, the overall general approach to the calculation is

essentially as follows:

The IRB you are entitled to is based on 70% of your pre-accident gross earnings, less 100% of any collateral benefits (i.e. short-term disability (STD), long-term disability (LTD) and/or Canada Pension Plan (CPP) disability benefits) that you are entitled to receive pertaining to the accident. A self-employed individual can then add to this, 70% of post-accident losses that they incurred because of the accident. The resulting amount is limited to \$400 per week (unless optional benefits are purchased) less 70% of any post-accident gross employment income earned. The benefit is payable for up to two years providing you suffer a "substantial inability to perform the essential tasks of" your employment, or beyond two years if you suffer a "complete inability to engage in any employment" for which you are "reasonably suited by education, training or experience".

Based on the above formula, anyone earning an annual income of more than about \$29,700 would be entitled to a maximum IRB of \$400 per week, or about \$20,857 per year (non-taxable), unless optional benefits were purchased.

[article continued from page 3]

Optional benefits can be purchased to increase the \$400 per week limit to \$600, \$800, or \$1,000 per week.

Therefore, if your annual earnings are greater than \$30,000 per year, you should “consider” whether it makes sense to purchase optional benefits. We say “consider” because there is more to the decision. For example, assume a person earns \$80,000 per year. 70% of their weekly income would be about \$1,077. Therefore it would seem to make sense to purchase optional IRBs to \$1,000 per week. However, if this person would be entitled to LTD benefits through their employer of say \$4,000 per month (i.e. \$48,000 per year, or about \$920 per week), their weekly IRB entitlement would be reduced from \$1,077 to \$157 (\$1,077 - \$920). Based on this, it may not make sense to purchase additional optional benefits.

Caregiver Benefits

Caregiver benefits are payable to or for an injured person who sustains a catastrophic impairment as a result of an MVA and can no longer provide the primary caregiving activities in which they were engaged at the time of the accident. No caregiver benefits are payable if the injured person is also eligible for an IRB. Maximum caregiver benefits are \$250 per week for the first person in need of care, plus \$50 per week for each additional person. Optional benefits can be purchased, equal to these amounts, to be paid in the event of a non-catastrophic impairment, but only for a period of up to two years.

Housekeeping and Home Maintenance Benefits

The SABS provides that the injured party could receive up to \$100 per week for reasonable and necessary housekeeping and home maintenance expenses if, as a result of the accident, the person sustained a catastrophic impairment and can no longer perform the housekeeping and home maintenance services

that they normally performed before the accident. Optional benefits can be purchased to receive up to \$100 per week for a non-catastrophic impairment, but only for a period of up to two years following the accident.

Medical and Rehabilitation Benefits and Attendant Care Benefits

The SABS sets out lists of medical and rehabilitation benefits that are, and that are not, available to an injured person. The maximum amount of medical and rehabilitation benefits that can be paid to a person who suffered a ‘minor injury’ is \$3,500 (plus HST).

Attendant care benefits pay for reasonable and necessary expenses incurred on behalf of the insured person for services provided by an aide or attendant, or by a long-term care facility. The maximum benefit payable is \$3,000 (plus HST) per month for a non-catastrophic impairment, and \$6,000 (plus HST) per month for a catastrophic impairment. No benefit is payable for a ‘minor injury’.

For a person whose injury exceeds those set out in the Minor Injury Guideline (MIG), the maximum benefit payable for combined medical, rehabilitation and attendant care benefits is \$65,000 for a non-catastrophic impairment and \$1,000,000 for a catastrophic impairment (plus HST).

Optional benefits can be purchased for up to \$130,000 or \$1,000,000 of benefits for a non-catastrophic impairment, or \$2,000,000 for a catastrophic impairment.

Death and Funeral Benefits

A lump sum death benefit of \$25,000 is payable to an eligible spouse and of \$10,000 to each dependant. Optional benefits can be purchased to double these amounts.

Funeral expenses will be paid to a maximum of \$6,000. Optional benefits can be purchased to a maximum of \$8,000.

Optional Indexation Coverage

The limits set out above are fixed.

That is, they do not increase each year for inflation protection. However, you can purchase optional indexation coverage, so that certain of the amounts would then be indexed each January 1, for inflation.

Premium Costs for Optional Benefits

Your insurance agent should be ready and able to discuss these optional benefits, and their costs, with you at any time. Our experience is that the costs of these optional benefits, individually, are generally fairly reasonable. However, as more options are added, the annual costs can add up.

Therefore, each item should be considered carefully with relation to your personal needs and situation. In addition, you should readdress these options every few years as your personal circumstances may change over time (for example, your income levels may have increased from when you last reviewed your policy, and so you may wish to reconsider the level of IRB available to you).

We would be pleased to discuss these benefits further with you at any time.

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Valuation Date – An Important Consideration



Regardless of the reason for a business valuation, an important consideration is the valuation date. One of the foundational principles of business valuation theory is that value is determined as at a specific point in time. When preparing a business valuation, a Chartered Business Valuator is generally only permitted to consider information that would have been known or knowable as at the valuation date.

Many valuations will consider the business' expected cash flows and the risk of realizing those expected cash flows. While businesses often deal with factors that may impact one or both of these areas (both positive and negative), these factors are only relevant to a business valuation if they would have been known or knowable at the valuation date. In an actual purchase/sale, it is not possible for the purchaser and vendor to know subsequent events with certainty, and as such could not consider them in the purchase and sale of the business. In a notional valuation, the valuator considers what a purchaser and vendor would reasonably have known as at the valuation date.

While this principle has always played an important role in business valuations, for many businesses it has taken on a greater importance due to COVID-19. COVID-19 continues to create significant uncertainty with respect to future cash flows and the risks associated with them. Some businesses may be experiencing temporary changes, while other may see a permanent change to their operations. The impact and duration of COVID-19 on a business' operations may have a significant impact on its value. However, the extent to which a valuator may consider these factors depends on the valuation date and the facts known at that valuation date. The valuator must carefully consider both the impact that COVID-19 has had on the business as well as the impact it is expected to have on the business in the future, if any, using only information that would have been known as at the valuation date.

Due to the significant impact and uncertainty COVID-19 has created for many businesses, combined with ongoing changes to the information available, the valuation conclusion may be significantly different

depending on the valuation date that is chosen. Care should be taken to ensure the valuation date used in your business valuation is appropriate for its purpose.

Our Financial Services Advisory Team (FSAT) have significant experience in this regard. Please contact one of the Chartered Business Valuators in our group if you have any questions or would like any further information.

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Spotlight - Brent Pyper



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Brent leads the Firm's Economic Loss Quantification Group. He works with plaintiff and defence lawyers, as well as insurance companies in the preparation of a variety of economic loss calculations (including motor vehicle accidents, slip and fall claims, medical malpractice claims, dependency claims, etc.), commercial litigation claims, and income replacement benefits (IRB) calculations. Brent has served as an expert witness in court, as well as at arbitrations, pretrials, and settlement meetings. His experience also includes business interruption insurance claims.

In addition, he provides consulting, accounting, and financial planning services for businesses and their owners. He has a broad range of experience in manufacturing, construction, real estate, retail, distribution, and not-for-profit organizations.

Brent qualified as a Chartered Professional Accountant in 1986 after graduating from McMaster University with a Bachelor of Commerce degree in 1983. He joined DJB in 1986 and was named Partner in 1999. He is Certified in Financial Forensics and a CERTIFIED FINANCIAL PLANNER™ licensee.

Brent has been active as a Director and Treasurer for several not-for-profit organizations and has served as a member on various committees of the local Chamber of Commerce.

FSAT SERVICES



- Assistance with Business, Acquisitions & Divestitures, Including Due Diligence & Quality of Earnings Reports
- Business Interruption Insurance
- Business Valuation
- 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
- Shareholder Agreements & Dispute Resolution
- Value of Future Care Cost Analysis
- Wrongful Dismissal Claims

DJB Contacts Interested in Buying & Selling Businesses - October 8, 2020



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 focusing 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 m and EBITDA from \$1 to \$5 m, 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.
- ▶ Investment group looking for companies with \$3m-\$30m in sales, focused on B2B services, Healthcare services and software.

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.
- ▶ Restaurant including the land and building. Asking \$3m.
- ▶ Machine shop specializing in large machining and fabricating and also providing comprehensive support services. Sales approx. \$2.9m and EBITDA approx. \$325k.
- ▶ A distribution company with \$5m+ in sales.

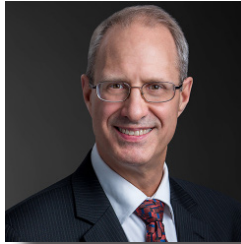
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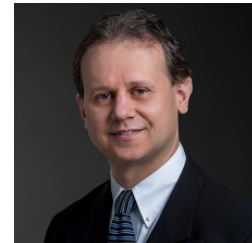
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