FFG VALUATIONS

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Recent Court Case Denies S-Corp Premium and Accepts Tax-Effecting

In Kress v. United States (James F. Kress and Julie Ann Kress v. U.S., Case No. 16-C-795, U.S. District Court, E.D. Wisconsin, March 25, 2019), the Kress family filed suit in Federal District Court (Eastern District of Wisconsin) for a refund after paying taxes on gifts of minority positions in a family-owned company. Plaintiffs James and Julie Kress brought this tax refund action against the United States of America to recover an over-payment of gift taxes and interest related to Plaintiffs' gift of minority-interest stock in Green Bay Packaging, Inc. (GBP) to their children and grandchildren they claim were erroneously assessed and collected by the Internal Revenue Service for the 2007, 2008, and 2009 tax years. The family-owned packaging company was organized as an S-Corporation.

The case covered many topics regularly debated by appraisers, including the selection of comparable companies under the Guideline Public Company Method, valuation differences between S corporations and C corporations, discounts for lack of marketability, transfer restrictions, and the impact of broader economic conditions (in this case, the 2008-2009 recession) on the valuation of privately held companies.

Specifically on the issue of S-Corporation adjustments, both parties' experts applied a C-Corporation tax rate to the company's earnings and the court accepted the practice. IRS has generally been against the notion of tax affecting because IRS' position in recent years has been that pass-through entity earnings (like S corporations) should not be tax-affected because they do not pay corporate level of taxes.

The government's valuation expert also applied an S-Corp premium to account for perceived tax advantages to the company flowing from the S-Corp status. The taxpayer's expert said the S-Corp status here did not add value to the gifted stock because the minority shareholders could not change the status of the corporation. The court declared itself "neutral" on the issue. If there were benefits to S-Corp status, it was unclear that the minority shareholders would enjoy them, the court found.

Click this link for further details about the court case.

Recent Assignments

FFG was engaged by a minority-level equity owner in a Real Estate Development Company that manages several developed and under-development projects. After receiving limited financial disclosures, FFG produced a detailed analysis of possible inter-company adjustments. In addition, FFG captured the benefits of tax credits for a new development, which the failure to incorporate would result in an inaccurate representation of the value. This analysis involved substantial market research that resulted in a significant increase in the concluded valuation. The Client had this to say about FFG's valuation service:

"We are very happy with the level of service that FFG provided. Rizwan and Jason were attentive, responsive, and they delivered a very high quality work product."

Rizwan Ahmed Earns Certified Valuation Analyst Credential

Rizwan Ahmed, MBA, CFA, CVA, with our firm has successfully completed the certification process with the National Association of Certified Valuators and Analysts (NACVA) to earn the Certified Valuation Analyst (CVA) designation. The CVA designation is granted only to individuals who have met a high bar or both prerequisite qualifications and passed a substantive examination testing both understanding of theory and the application of skills in the field of private company business valuation.

"The CVA designation is an indication to the business, professional, and legal communities that the designee has met NACVA's rigorous standards of professionalism, expertise, objectivity, and integrity in the field of performing business valuations, and the attendant financial consulting related to the discipline.", stated Parnell Black, MVA, CPA, CVA, and CEO of NACVA. "NACVA's CVA designation is the only valuation credential accredited by the National Commission for Certifying Agencies (NCCA), the accrediting body of the Institute for Credentialing Excellence (ICE)." Black added.

To become accredited by NACVA, candidates typically have completed intensive training. An initial requirement to becoming a CVA is that the applicant either be: 1) a licensed CPA holding an active, valid, and unrevoked CPA license in his or her state; 2) or hold a business degree and/or an MBA, or higher degree from an accredited college or university, and have two years or more of full-time (or the equivalent of) experience in business valuation and / or related disciplines. Those who have earned the CVA credential must recertify every three years in order to maintain their credential.

For more information about FFG's business valuation, accounting, financial consulting, and related consulting services, visit the FFG website at www.FFGVal.com or contact Mr. Ahmed at 714-453-9769 or via email at rahmed@ffgval.com.