Vol. 14 No. 1 February/March 2011

2 Bloor Street West, Suite 2603, Toronto, Ontario M4W 3E2
Telephone: (416) 961-5612 Fax: (416) 961-6158
E-mail: valuators@marmerpenner.com

Marmer Penner Inc. Newsletter

Written by Steve Z. Ranot, CA•IFA/CBV
Edited by James A. DeBresser CA•IFA/CBV

Value-To-Owner

Value-to-owner is a concept that is often associated with personal goodwill. Personal goodwill is non-transferable and represents value that is not considered in determining to net family property ("NFP"). Accordingly, readers may think that if a property has little value save for its value-to-owner, then it is likely to have no impact on equalization. That is untrue. While value-to-owner is commonly associated with personal goodwill, it is not limited to it. There are many instances where a property's value-to-owner is greater than its fair market value without there being personal goodwill. Let's start by examining a situation where the higher value-to-owner is attributable to personal goodwill.

Consider the medical practice of a neurosurgeon. She earns $500,000 a year and all of her work comes from referrals from other doctors who are familiar with her good reputation. The value for her practice is typically limited to its book value, which typically consists of bank balances, OHIP receivables and equipment, less accounts payable and other liabilities. When she eventually winds up her practice, that is all she will receive on a sale or wind-up. While this type of practice has a low fair market value, it has a high value-to-owner because she would pay a significant amount not to have her ability to practice as a neurosurgeon taken away. As the Courts have already determined, there is no value to a medical license due to its non-transferable nature. The difference between the higher value-to-owner and the lower fair market value is fully attributable to personal goodwill. This is an

example of high value-to-owner that is not considered in determining NFP. It is equitable because the business owner in this case will never actually receive the higher proceeds of disposition associated with the personal goodwill.

However, there are other assets that may have zero fair market value but high value-to-owner and, in these cases, the owner may actually receive proceeds equal to the higher value or more. Consider employee stock options and interests in a trust. Neither of these is transferable and accordingly, cannot have a fair market value based on the generally accepted definition of fair market value. However, it would be inequitable to ignore their values despite their non-transferable nature. That is why the courts have permitted the use of value-to-owner in valuing these assets for NFP purposes. A trust fund beneficiary may be entitled to a capital distribution upon reaching a certain age. That has high economic value but is non-transferable so its value to owner is high and its fair market value is nil. What makes use of value-to-owner equitable is that the beneficiary will most likely receive this valuable asset.

* * * * * * *

The partners of Marmer Penner Inc. wish to congratulate Richard Davies on the successful completion of his Uniform Final Examination (the final exam to become a Chartered Accountant). Rick will soon receive his designation as a Chartered Accountant and will continue his work towards the CBV designation.