

# Independence. Expertise. Experience.

Dispute Perspectives  
Issue no.1

## Independent valuation advice in relation to separation and divorce

Separation and divorce is often a long and complex process, and negotiating a financial settlement will frequently require specialist expertise.

In many cases, each party's business assets, which may be international and complex in nature, will need to be identified and valued for completion of the Form E.

In cases where the parties are unable to agree upon value, an expert may be required to provide independent evidence to enable the parties to reach a settlement, or the court to make an order.

Questions around value, potential tax liabilities and liquidity — the ability to realise value to fund a settlement -will need to be considered and addressed by an independent, knowledgeable expert.

### Extensive experience

Having worked with instructing solicitors on cases involving substantial financial resources, we are confident in the role of the expert witness, and understand the requirements of the court and the case management issues instructing solicitors face.

We work alongside solicitors throughout the process, from completion of the Form E to providing the court with expert testimony, helping the case to run smoothly and efficiently and ensuring that the parties are well informed as to the technical and commercial issues.

### Working with instructing solicitors

We provide the skills and services required to complement legal expertise in order to provide a complete separation and divorce offering:

- PwC's valuations practice is a dedicated team of over 100 valuation specialists. We bring relevant and current industry-specific valuation experience, supported by strong credentials.
- PwC's tax specialists have extensive experience of the tax issues that your clients may face during separation and divorce and can work with you to address any tax needs that arise, from providing independent expert witness evidence to providing advisory services.
- We have provided expert evidence in a significant number of divorce cases including the landmark Charman v Charman case.

Form E	We provide initial, indicative valuation advice in relation to business assets and potential tax liabilities necessary for the completion of the Form E
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Asset Identification	We recognise that asset identification, verification and tracing may be key components of matrimonial proceedings and we often work closely with our forensic accountants and investigations colleagues to address any such concerns
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Expert Reports	We have extensive experience in providing both single party and single joint expert reports for submission to the court, which are independent, robust and able to withstand scrutiny
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Other Experts	We take a proactive approach to meeting and liaising with other experts to produce joint statements of agreement and disagreement, with a view to focusing the discussions between the experts and submissions to the court on the most significant areas
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Court Testimony	Our experts regularly give evidence in court and other forums and frequently work with legal teams to prepare potential cross examination questions
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## What are the issues?



### Valuation

- Obtaining the necessary information - and knowing what to ask for — particularly when the asset is owned by the other party
- Determining the appropriate basis of valuation (e.g. market value versus fair value versus economic value)
- Considering issues around minority and controlling shareholdings, particularly when other shareholders are family members, and the valuation implications thereof
- Recognising the need to make commercial adjustments to the accounts of family or owner-run businesses when determining value
- Applying industry specific insights, and understanding the risks around valuing an asset when economic conditions are uncertain and market data is limited



### Tax

- Advising on the tax implications relating to the timing of transferring assets between spouses for Capital Gains and Inheritance Tax purposes
- Advising on tax planning or schemes that have been undertaken in the past, the assignment of life assurance products, and pension splitting on divorce
- Understanding international tax issues where assets are overseas or one of the spouses is not domiciled in the HK
- Providing comprehensive tax advice around restructuring or de-merging corporate groups and business assets



### Liquidity

- Having a wider appreciation of the various issues around using business assets to fund settlements and providing illustrative calculations to assist you, your client and the court
- Considering the impact that the current transaction market will have on the ability to sell a private company, and the associated value implications
- Evaluating the ability to raise additional debt finance against business assets in a “credit crunch” lending environment
- Understanding the wider implications of the different ways of funding a settlement, for example, shares versus cash, including operational and tax implications
- Assessing the likely income that an asset will generate in the future, taking into account, for example, re-investment requirements and/or lender restrictions on dividends

## Who we are



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