

How Accurate Are Valuations When Estimates And Averaging Are Used?

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Mastrobuono v. Mastrobuono

We recently testified at the unreported case of Mastrobuono, Court file No. 35/38/010029/00 in Sarnia. Justice Desotti was presented with two valuation reports for the same pension.

One report was prepared by another pension valuator who based his valuations on estimates.

Definition: estimate, noun: "a guess of what the size, value, amount, cost, etc. of something might be." Cambridge Dictionaries Online.

We prepared the second report based on confirmed information from the pension plan administrator and from details taken from the actual pension plan document.

Of course the values in our two reports varied greatly.

Before Tax Values

PVOC Other

Age 65 \$46,460 \$57,981

Age 62 \$61,323 \$73,071

After Tax Values

PVOC Other

Age 65 \$36,955 \$46,037

Age 62 \$48,777 \$58,018

Justice Desotti recognized that "both valutors have given expert evidence at other trials and most importantly their pension valuations have been relied on and utilized on a regular basis by counsel throughout the province of Ontario." However, he then accepted our values.

It is important that you never accept values that have been prepared based on estimates when accurate and confirmed information is available. If a valuation report says that the author has estimated some of the information, you should insist that the information be confirmed with the pension administrator before you accept the report.

Averaging

A proper pension valuation report will

have been prepared carefully based on actual confirmed facts and will produce three possible values for the pension for the equalization of property (unless the member has already retired).

It may be suggested that three values be averaged to arrive at the proper value to use. Each of the values in the report is based on assuming that the person will retire at a certain age in the future. Each value is only appropriate for the particular age of assumed retirement. There is no logic to averaging the values. The average of the three possible values will probably not be fair to either party.

The courts have determined that the proper value depends on the facts of the case. If it is desirable to assume that the person will retire mid-way between two values, we will gladly calculate that value for you. It is usually quite different than the average of two or three values.

Valuation of a RRIF

When preparing the NFP, it is always tempting to value a RRIF or similar asset by just taking the balance in the fund at the date of separation and deducting a "reasonable" allowance for income taxes. However, this method could overvalue this asset substantially.

A RRIF provides for payments to the holder for their lifetime with the balance payable to either a person or the holder's estate. Based on good estate planning, the holder may have irrevocably named his spouse as the beneficiary of any balance that is still in the fund on their death. This means that the RRIF has an entirely different value. In fact the holder's value is no longer the full balance in the account and the spouse has a remainder interest to be valued and included in their NFP. In this case the holder's value is the net present value of future payments taking into

account the fact that the holder may die at any time (similar to valuing a pension). This could produce a much lower value for the holder's RRIF than the amount in the fund at the date of separation.

As for the income tax allowance, this should be based on the average rate of tax that the holder can expect to pay over the period that they will be receiving payments from the RRIF. This could provide a much different deduction for the tax allowance than the 20% or 25% that is often used in valuations as being a "reasonable" tax allowance.

In a recent case in which we were involved in, the balance in the RRIF at the date of separation was over \$600,000. Reducing that by a "reasonable" allowance of 25% would produce a value for the NFP of \$450,000. We were able to prove that the proper value was only \$150,000 rather than \$450,000, and that the spouse's irrevocable survivor interest was worth nearly \$250,000. Like pensions and other property, a qualified valuator should value a RRIF or similar asset so that the proper values will be used in the NFP. We can value such property for you.

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