



HIRING AN INDEPENDENT BUSINESS VALUATOR

Guidance for private business owners on fair market value, independence, and CRA expectations

EXECUTIVE SUMMARY

Private business owners turn to independent valuation experts for many reasons: tax-driven reorganizations, family succession, shareholder transactions, and dispute contexts. Where *fair market value*¹ (FMV) affects tax outcomes or legal rights, independence and defensibility matter. In Canada, engaging a Chartered Business Valuator² (CBV) can help ensure valuation methods are fair and reasonable, assumptions are well supported, and the report is credible to the Canada Revenue Agency (CRA) and the courts.

SITUATIONS WHERE INDEPENDENCE MATTERS

- **Non-arm's-length transfers:**

If you sell to, or buy from, a non-arm's-length party and the transfer price is later determined to differ from FMV, the Canada Revenue Agency may re-characterize amounts under section 69 of the Income Tax Act (the "Act"). If FMV is deemed higher, the seller may face additional capital gains taxes. Interest costs can accrue from the original transfer date on the basis that the transaction occurred at FMV. In rare cases, if the CRA concludes that the price was based on false statements or gross negligence, penalties under subsection 163(2) of the Act may apply. However, these penalties are unlikely where the disagreement stems from bona-fide valuation differences among independent valuers acting in good faith.

- **Intergenerational transfers and Bill C-208:**

For qualifying transfers of small business, farming, or fishing corporation shares to a corporation controlled by children, grandchildren, or other qualifying relatives, amendments associated with Bill C-208 allow access to capital gains treatment—subject to specific conditions—rather than a deemed dividend under anti-surplus-stripping³ rules. While hiring a CBV is not mandatory, CRA guidance

¹ Fair market value is "a standard of value considered to represent the price, expressed in terms of cash equivalents, at which property would change hands between a hypothetical will and able buyer and a hypothetical willing and able seller, each acting at arms-length in an open and unrestricted market, when neither is under compulsion to buy or to sell and when both have reasonable knowledge of relevant facts." Source: International Valuation Glossary – Business Valuations; as updated February 24, 2022.

² The (CBV) designation is granted by The Chartered Business Valuators Institute that aims to lead, build, and evolve the valuation profession within Canada and contribute to the highest practice standards globally as a founding member of the International Institute of Business Valuators (IIBV) and member of the International Valuation Standards Counsel (IVSC). <https://cbvinstitute.com/>

³ Surplus stripping: under the Canadian Income Tax Act, following Bill C-208, surplus stripping is when "dividends are converted to capital gains to take advantage of the lower tax rate." Source: <https://www.canada.ca/en/department->





indicates that a valuation report prepared to CBV Institute standards meets its expectations for an “independent assessment” of FMV. While each situation is fact-specific; obtaining an independent valuation is widely considered to be best practice for substantiating FMV.

- **Price adjustment clauses (PACs)⁴:**

PACs are common in related-party transactions, including reorganizations/estate freezes under section 86, share-for-share exchanges under section 51, rollovers under section 85, transfers under section 69, and certain attribution and related rules (e.g., subsections 74.1(1)-(2), sections 74.2-74.3, subsection 74.4(2), and subsection 75(2)). CRA Income Tax Folio S4-F3-C1 outlines the conditions under which CRA will respect a PAC, including a bona fide intent to transact at FMV and the use of fair and reasonable methods to determine FMV. An independent valuation prepared contemporaneous with the transaction, is strong evidence of such intent and methodology and can reduce reassessment risk.

WHY HIRE AN INDEPENDENT BUSINESS VALUATOR

- **Objectivity & Credibility:** Independence removes conflicts; CBV-standard reports align with CRA expectations for ‘independent assessment’ under Bill C-208.
- **Methodology That Stands Up:** Robust FMV determinations come from sound financial analysis and the thoughtful selection and application of income, market, and asset approaches, with sensible normalizations and support for discounts/premiums.
- **Documentation the CRA Expects:** A coherent narrative—assumptions, industry and company analysis, calculations, and reconciliations— a CBV compliant report is ready for review by the CRA or courts.
- **Defensibility in Disputes:** If challenged, a third-party expert who can testify to methods and assumptions can materially improve outcomes.
- **Future-Proofing:** Transactions such as freezes, buy-ins/buy-outs, redemptions, and estate plans may be revisited years later; a robust record contained in a CBV compliant report reduces risk.

[finance/news/2021/07/government-of-canada-clarifies-taxation-for-intergenerational-transfers-of-small-business-shares.html?utm_source=chatgpt.com](https://www.finance/news/2021/07/government-of-canada-clarifies-taxation-for-intergenerational-transfers-of-small-business-shares.html?utm_source=chatgpt.com)

⁴ PAC are a “standard clause providing for a price adjustment of the purchase price in a non-arm’s length transaction in which there is a possibility that the Canada Revenue Agency (or provincial taxing authority) could challenge the purchase price figure agreed between the parties.” PACs are intended to “ensure that, if the purchase price is increased or decreased to one party, the other party receives a matching price adjustment, eliminating the potential for an element of double taxation.” Source: [https://ca.practicallaw.thomsonreuters.com/w-021-4304?transitionType=Default&contextData=\(sc.Default\)&firstPage=true](https://ca.practicallaw.thomsonreuters.com/w-021-4304?transitionType=Default&contextData=(sc.Default)&firstPage=true)





CLOSING THOUGHTS

For many business owners, a number is just a number—until it determines tax consequences, shareholder outcomes, or family fairness. Recent CRA guidance and court decisions underscore that a defensible, independent valuation can help avoid costly surprises. At Myles Martin & Company, we provide independent business valuation services and work collaboratively with your accounting and legal advisors. We do not provide legal or accounting advice; our role is to deliver robust, well-supported FMV determinations for your specific business interests, ideally before you engage in a non-arm's length transaction.

Thank you,

D. J. Myles Martin, CFA, CVA, CBV, FMVA
Principal, Myles Martin & Company
Email: djmm@mylesmartin.ca
Phone: (289) 776-8615
Web: mylesmartin.ca

REFERENCES

1. Income Tax Act (Canada), ss. 69, 163(2), 51, 85, 86, 74.1–74.3, 74.4(2), 75(2).
2. CRA Income Tax Folio S4-F3-C1, Price Adjustment Clauses.
3. Intergenerational business transfer amendments (Bill C-208 and subsequent amendments) and related CRA administrative guidance.

NOTE: This article is informational only and not legal, tax, or investment advice. Facts and rules are summarized at a high level and are subject to change; Myles Martin & Company Inc. is not obligated to update this article. Professional advice should be obtained for your specific circumstances.

