

# COLLABORATIVE Practice Tips

## February 2021

A monthly bulletin from the CP Cal Practice Excellence Committee

The Practice Excellence Committee is pleased to offer tips to help you increase your Collaborative cases and achieve *practice excellence*.

Please send us your comments and questions! Email us at [info@cpcal.com](mailto:info@cpcal.com)

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### **Is it “Business as Usual” for Business Valuations and Cash Flow During Covid?**

For clients who own businesses, some have been negatively impacted due to the restrictions placed by the Covid-19 pandemic; others have flourished. The challenge we have during Covid is to determine whether or not these fluctuations are only temporary or long term. Several collaborative Financial Specialists (“FSP’s”) have shared specific insights regarding what they are looking for when valuing businesses and/or business income during this time of Covid.

**Status Quo:** Where there has been little change to a business over this past year and none foreseen going forward, valuations and cash flow for support will remain consistent.

**Are Two Valuations Better Than One?** Where performance has changed significantly due to Covid, FSP’s are looking for the potential longevity of the business, i.e. will it still be in business over this next year? Will it do better after Covid or worse? If performance of the business is likely to fluctuate, a primary consideration is whether two agreements might be more appropriate, i.e. a valuation reflecting the current reality, with a second valuation down the road.

**“Wait and See”** is a common approach, with final business valuations potentially occurring two to three years from now. Cash flow for support is often calculated based on current circumstances with an agreement for a reconciliation at the end of the fiscal year.

**Use “Normalization Entries” As Overall Approach:** This approach is generally used, even without Covid, i.e., when a business is valued or gross cash flow determined for support, and there is a one-time occurrence or unusual increase or decrease in income or expenses, causing FSP’s to make a “normalization entry” for said fluctuation.

**The Impact of Covid-19 Warrants the Same Normalization Concept:**

- Consider restaurants and bars: Before Covid, they are already the riskiest businesses to value because income typically fluctuates.
- Restaurants and bars have only become even more risky due to recent policy decisions to shut them down (more than once) and to place restrictions that limit the amount of business each can do, i.e. take out; to dine out, and then back to take out.
- Some businesses will not ever come back. If a business valuation and/or cash flow needs to be “current” during this pandemic, there could be no value if a business has had to close it’s doors.
- In the alternative, consider a company similar to Zoom. It’s foreseeable that people will continue video conferencing after Covid has been quashed. Thus, while video conference income might stabilize, the increase in profit is here to stay.

**Payroll Protection Program (“PPP”) loans** will also require normalization entries.

- Although the rules related to these loans have changed several times, currently, PPP funds are to be claimed as “non-taxable income”.
- It was also recently decided that expenses paid by the PPP loan may be written off.
- However, until a PPP loan is forgiven, the loan is required to be repaid and thus not included in gross cash flow and/or might require amendment of the 2020 tax return if and when the loan is in fact forgiven.
- From a divorce perspective, this increase in non-taxable income for all businesses who received PPP loans is in fact non-recurring income going forward. However, if support needs to be reconciled for 2020, the additional income to the controlling spouse would be included in a retroactive support calculation.

**The Economic Injury Disaster Loan (“EIDL)** is an actual loan, with low interest, which will treat expenses normally on business tax returns and repayment will be required.

**Collaborate:** It is very important to work with the FSP and business accountant to properly account for normalization entries, make recommendations as to future review, and to calculate costs of any loans received by the business during this time of pandemic.

**Co-Owned Businesses – Organization and Income Available for Support:**

- When a business will continue to be co-owned by spouses, details

- When a business will continue to be co-owned by spouses, details are necessary as to who will have control over each aspect of the business during the parties' separation and how profits and distributions to each owner are to be calculated and paid.
- If there is a controlling spouse during separation, it is appropriate to assign reasonable compensation to the operator and to distribute profits according to ownership.
- If the non-controlling spouse is not working for the business and generally receives no salary, it would be appropriate to distribute the profits, then calculate support.
- During this time of fluctuation, calculate a base support on the current salary and shared profits, with a true-up at the end of the fiscal year.
- For year-end support reconciliations, it is important for FSP's and attorneys to be detailed about how these reconciliations will be calculated; how often a reconciliation is needed; and who will prepare the calculation.

**The Devil is in the Details:** Be sure to include all specific provisions included in the FSP's recommendations resulting from the temporary and long-term business and cash flow valuations, as well as all anticipated changes in any Stipulation and Order or MSA.

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### From the PEC:

#### Marketing Tip

Most of us have figured out how to add a "signature" to our email accounts. Does yours include that you are a Collaborative professional? If not, this is a quick and easy thing to do this week to market your collaborative practice. Be sure to also change your signature on your phone. On an iPhone, go to Settings, and find Mail. Once in Mail, find Signatures. You'll be able to view and change your signature for each email address. Something to consider: we are striving to be inclusive. An easy way to show people who are transgender or gender neutral that you "get" the pronoun thing is to simply add your preferred pronouns to your signature. You can do this on Zoom as well!

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