

**Shares and Assets Valuation Fiscal Forum held on 9 September 2013 at 13.30
Venue – Room 2/58, 100 Parliament Street, London**

List of attendees

Tim Lloydlangston - SAV

Barry Roland – SAV

Mike Fowler – SAV

Andrew Caldwell - Berkeley Research Group
Jenny Nelder - Bruce Sutherland & Co
David Bowes - Bruce Sutherland & Co
Sue El-Hachmi - Osborne Clark
Colin Tait - Pricewaterhouse Coopers LLP
Lynnette Bober - ICAEW
William Franklin - Pett Franklin & Co LLP
A J Bains - Pett Franklin & Co LLP
Ken Read - Grant Thornton UK LLP
Andrew Robinson - Deloitte LLP
Kirti Seth - Grant Thornton UK LLP
Peter Gouw - BDO LLP
Angela Belsten - Ernst & Young LLP
Rishi Shah - American Appraisal (UK) Limited
Fiona Bell - The RM2 Partnership Limited
Mark Gearing - Field Fisher Waterhouse LLP
Tarlochan Lall (Barrister) - Monckton Chambers
David Hadley - Kingston Smith LLP
Mick Ruse - M H Ruse LLP
Diane Elliott - BDO Stoy Hayward
Ian Murphie - M M & K Limited
Ian Logan - Pricewaterhouse Coopers LLP
Stuart Davis – Davis Consultancy
Ed Higgs – Pricewaterhouse Coopers LLP
Errol Danziger – Danziger Capital Partners LLP
Travis Taylor – Navigant Consulting Europe Limited
Tony Hindley – Valuation Solutions
Angela Hennessey – Angela Hennessey
Ollie Gryce – KPMG
Steve Lygo – Parmentier Arthur
Stuart Gilham – Parmentier Arthur
Nick Stobbs – Vequity Intelligence
Susan Blower – BDO LLP

Apologies

Graeme Nuttall - Field Fisher Waterhouse LLP

1. Introduction

Tim Lloydlangston (TL) welcomed everyone to the meeting. He outlined current pressures on SAV with a 5% budget cut and new work (Employee Shareholder Employment Status and more avoidance work). However, SAV are also running a new valuer training course which should help to ease the situation in the future.

TL mentioned that the General Anti Avoidance Rule (GAAR) was likely only to be used in extraordinary circumstances and was overseen by a completely independent panel.

TL drew people's attention to HMRC Spotlight newsletter 15 on share loss relief schemes. These schemes are at the extreme end of avoidance and should not be recommended to clients. Criminal Investigations are looking at these schemes at the moment.

TL also mentioned that SAV wants to encourage feedback from agents as to what SAV is doing well and where it needs to improve. SAV has visited some accountants recently.

2. Business Results

Mike Fowler (MF) went through a summary of SAV's Business Results for the year ending 31 March 2013. The number of cases over 18 months old is much lower now than historically, but has increased over the last few months. MF mentioned there are currently eight new trainees and it is hoped that once they are out of training, SAV will be able to reduce the number of older cases.

MF stressed that the amount of work in SAV has not dropped. Efforts have been made to eliminate unnecessary referrals and in general SAV has been dealing with more complex cases.

The time taken to settle cases on negotiation increased last year. This was due to staff cutbacks and also as a valuer training course was running. There is likely to be continued pressure this year. SAV is also struggling to meet postal targets at present. It is hoped this will improve once the current training course finishes.

A question was asked as to how the yield split down into the different areas? MF replied that it mostly came from Large Business.

A further question was asked regarding what issues are contentious? MF replied that there was often disagreement with negligible value cases and whether there was any value when subscribing for shares.

3. Response Times / Postal Delay

There is a current issue with the amount of time taken for letters leaving SAV to reach their destination. MF explained that HMRC uses TNT to collect and sort post before it goes to the Royal Mail where the post is sent by second class post. Post should be delivered within one week, but SAV is aware that some is taking much longer. The reasons are unclear and SAV is trying to get to the bottom of the issue.

A dummy letter has been sent to Fiscal Forum members to send back to SAV so it can try and pinpoint where the problems lie. Some of the audience had received these dummy letters, but not all.

SAV appreciated that the current situation is frustrating and assured those present that they are very aware of the high levels of dissatisfaction, are gathering evidence and will be doing all they can to resolve the problem.

A question was asked whether firms can contact SAV by email? As discussed at last year's Fiscal Forum, although SAV can't encourage the use of email, if companies send SAV the form accepting the possible risks involved in email correspondence, signed by their client, SAV will communicate by email.

4. Valuer qualifications / training

MF explained that the SAV Grade 6s and Grade 7s are now accredited members of RICS – the Business Valuation Faculty. SAV Senior Officers and Higher Officers with two years relevant valuation experience will soon become associate members of RICS. New trainees after following a two year technical development programme will become associate members once they have completed a RICS ethics test. The procedure whereby new Grade 7s progress from associate to full membership still needs finalising.

MF then explained that new trainees follow a six month training programme including classroom teaching and self study modules. They then have to pass a written test and later a final assessment meeting exercise before they can become a valuer. After that there is supported casework development to give the trainees exposure to a full range of cases. The trainees are monitored and assessed by their manager. All SAV staff who present cases at tribunal are fully accredited members of RICS – see point 7 below. MF stressed trainees are receiving professional and practical development.

5. Secondments

TL explained that SAV was looking at introducing secondments (possibly within the year) between SAV and commercial firms so both might get a better idea of how the other works. There will obviously be some security and confidentiality issues to overcome, but TL said if SAV took in a member of one firm on secondment, they would get to see letters written by rival firms. Do people see a potential confidentiality problem regarding their clients' commercial information? There did not seem to be a problem amongst those present. People do move between firms. TL asked anyone who does have an issue to let him know.

It was asked what level of people could apply for secondment? TL said SAV was flexible, but possibly a fairly high level first. It was expected the secondment would last between 3 – 6 months.

SAV was also asked whether guest speakers ever spoke to the office. TL said yes, this had started this year.

6. Process for Employee Shareholder Employment Status

Barry Roland (BR) explained that this employment status took effect from 1 September 2013. SAV do offer a pre transaction check service and there is guidance on the valuation process on the HMRC website. There is also a form

VAL232 which should be filled in on line, printed off and then sent to SAV. BR said he had received feedback that there were some issues with this form, but he believed that now these problems had been fixed and suggested that anyone who had a problem previously should try again.

A question was asked as to whether a late stage draft of the agreement between the employee and firm could be sent with the VAL232 (as the signed agreement may not be ready at this stage). BR said a late stage draft would be acceptable, but agents should make clear that this is what it was.

BR asked if the audience thought there would be a lot of interest in this type of scheme? It was generally thought that it would be early stage companies who would be most interested; in general the costs of set up might be a disincentive to some. The initial reaction to the scheme was lukewarm but take up was likely to grow particularly amongst private equity.

BR said if people had queries to contact him as SAV will be reviewing the process. It is expected that SAV will operate a similar system for this new scheme as is already in operation for EMLs.

7. Litigation – recent cases and SAV’s approach

MF updated the Fiscal Forum on recent changes to SAV’s approach when a deadlock situation is reached. SAV wants to be more pro active. SAV has previously been reluctant to field internal experts at tribunals, however now it has accredited valuers. MF explained that around ten years ago a panel of independent experts had been set up to assist SAV. However, this was expensive, time consuming and SAV did not always agree with the view of the independent valuer. Recently due to the credit crunch, there has been intense scrutiny of money spent on outside experts. SAV now has RICS accredited experts with recognised status before tribunals so SAV can be more decisive and get matters moving by using closure notices and Tribunals. Some of the budget for independent experts has been transferred into SAV’s manpower budget, to pay for extra Grade 7s who could appear before tribunals.

Three cases have been taken to tax tribunals this year – a negligible value case (Anthony Perry TC/2012/07357), an unreported Criminal Investigation case and a minority holding case (Chartersea Ltd) for which a decision is still awaited. There are five more cases in the pipeline where closure notices have been appealed and which are moving towards tribunals.

MF said that it was likely that SAV would act as expert in ‘normal’ cases with an expert from the Independent Panel being used in bigger or more precedent setting cases.

MF said it was hoped this procedure would lead to quicker settlement times, more clarity and give more certainty to taxpayers.

8. Information Standards – updated SAV Manual instructions

BR explained that recently SAV had clarified their thinking on forecast information in particular regarding Growth Shares and added a section to page SVM114040 of the SAV manual. Some agents had argued that as a minority shareholding was being valued, no forecast information should be available. SAV considers

that as there is the opportunity for an exit, in many circumstances it is reasonable that some forecast information would be available.

BR explained that this issue usually crops up with Growth Shares. Other valuations will be considered on their own merit.

There was some support for this clarification which was essentially felt to be a matter of common sense.

BR said that this year SAV has also published some simpler EMI valuation guidance including some examples. It is hoped that these will be particularly useful to those not experienced in share valuation.

9. HMRC view on incorporation of medical practitioners

BR explained that HMRC as a whole has had a cross directorate project on this topic and he hopes that a more detailed response will be available in a few weeks time. It is not just a pure valuation issue, other HMRC experts also need to be involved.

BR said when the reply is published; SAV will let Fiscal Forum members know.

10. Excepted Assets for BPR in a recession

It was asked if SAV's view of what were 'excepted assets' changed during a recession? MF answered yes, the view changed in accordance with what was felt reasonable in the prevailing circumstances. In risky times it might be prudent to hold more cash. SVM111230 sets out SAV's view. Each case will be considered on its own merits.

There was a query as to whether SAV valuers were taking account of this? MF said the official view was in the SAV manual and SAV would remind its valuers of this.

11. The consequences of unagreed EMI option values

BR explained that SAV offer a pre transaction service where parties can try to agree a value before options are granted. In the past, large numbers of options were never exercised which was time wasting. Now SAV is agreeing more EMI valuation on a 'without prejudice' basis to speed up agreements. In cases where SAV and the agents have failed to agree a value, companies have to decide how they wish to proceed. They can go ahead and issue options on their own figures, but they do not have the reassurance that the figure won't be challenged by HMRC in the future if the option is exercised.

BR asked whether this was causing problems to any of the audience?

It was thought there could potentially be big liabilities, but this was probably rare. It was in everybody's interest to try to get the value agreed beforehand.

The point was made that SAV were not consistent when considering retrospective agreements. Some valuers would agree them if the value was acceptable, others would not. BR offered to consider any examples.

12. Restrictions / UMV

A question was asked whether if there were restrictions in the Articles, should these restrictions be taken into account in EMI valuations? BR said there was some guidance on this within the Earnings Related Securities Manual at ERSM30310. It was acknowledged by all that this was a difficult area.

BR asked whether restrictions were a common problem and what aspects in particular? Some people felt that having particular percentage discounts for specific restrictions would be useful. BR said the SAV manual had been slimmed down as some guidance was being taken out of context but if some further clarification was needed this could be reconsidered.

It was asked when the Grays Timber guidance was to be published – this was overdue? BR said he believed it would be published very soon. (In fact it had been published a few days before – see [ERSM80130 - Disposals for more than Market Value: Grays Timber Products Limited v HMRC \(\[2010\] UKSC 4\)](#))

13. Ordinary shares value if debt / preference shares exceed enterprise value

This question was fairly case specific. BR said this situation was similar to the growth share issue when there can be complex agreements with a value now and in the future as hope value. MF said in general enterprise value should incorporate hope value.

14. AOB

Two years ago a Fiscal Forum question was asked regarding PCPI figures and Fred Cook then answered that PCPI should be used with care and not in isolation. Recently a member of SAV staff quoted PCPI in isolation in correspondence. Had there been a SAV policy change in this area? MF said 'no' and suggested asking the caseworker's manager to have a look at the case.

It was asked if the Fiscal Forum could be notified when the SAV manual was amended. This was agreed.