VALUE MANAGEMENT INC.

Investment Banking + Valuation Services

ISSUES + UPDATES 4TH QUARTER 2026

IRS Issues AI Guidance for Tax Practitioners

The IRS has released Introductory Guidelines for Responsible AI Use in Federal Tax Practice, offering its first broad guidance on how tax professionals should use generative AI while complying with Circular 230.1

Although aimed at attorneys, CPAs, and other tax practitioners, the guidance also has implications for valuation analysts who prepare tax-related valuations.

Where the buck stops: Rather than discouraging AI, the IRS acknowledges that it is becoming a standard part of professional practice. The guidance stresses, however, that practitioners remain fully responsible for verifying facts, calculations, citations, and legal authorities before submitting work to clients or the IRS. It also cautions firms to adopt AI policies covering staff training, confidentiality, secure data handling, vendor oversight, and documentation of AI use. The IRS further notes that AI-generated efficiencies should be reflected in billing practices and warns against relying on unsecured public AI tools that could expose confidential taxpayer information.

Intangible Assets Now Account for 92% of S&P 500 Value

A new update to the Intangible Asset Market Value Study from Ocean Tomo shows that intangible assets now account for roughly 92% of the market value of companies in the S&P 500, leaving just 8% attributable to tangible assets such as property, plant, equipment, and inventory.

Economic inversion: The study tracks the composition of corporate value over the past five decades and finds a dramatic reversal from 1975, when tangible assets represented 83% of S&P 500 market value and intangibles only 17%. Ocean Tomo describes this shift as an "economic inversion," reflecting a transformation in how companies create value as intellectual property, brand, data, and other nonphysical assets have overtaken physical capital as the primary drivers of enterprise value.

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VMI Highlights:

We are excited to welcome Lincoln Eguko, CVA as a Senior Financial Analyst to Value Management Inc. Lincoln brings relevant experience in transaction advisory engagements, value acceleration projects and ESOP valuation services. He will be a great asset to our team and our clients.

VMI is excited to be a gold sponsor of the upcoming ESOP Association Northeast Regional Conference in Mystic, CT in October. Ed Wilusz and Susan Wilusz will both be presenting.

If your firm is interested in having VMI give a presentation on business valuations and/or mergers & acquisitions, please contact Susan Wilusz at smw@valuemanagementinc.com.

Retire Through Ownership Act Passes, Providing ESOP Valuation Safe Harbor

The Retire Through Ownership Act, S. 2403, which was passed unanimously in the Senate in October 2025, was passed in the House by a 401-14 vote on September 16 and will now go to President Trump to be signed into law.

The Retire through Ownership Act was introduced to address the risks of ESOP valuation by creating a "safe harbor" for ESOP trustees. It would do this by allowing ESOP trustees to rely on independent appraisals by qualified ESOP appraisal firms using guidance under IRS Revenue Ruling 59-60.

Under the Retire Through Ownership Act, an ESOP fiduciary may rely in good faith on a valuation provided by an independent professional valuation expert or business appraiser who uses the longstanding principles and methodologies described in IRS Revenue Ruling 59-60. The legislation does not diminish a fiduciary's obligation to act prudently and solely in the interests of plan participants.

Private Equity ("PE") Threatens the CPA Brand, but Money Talks

Over half (57%) of CPAs say private equity is undermining the CPA profession's public trust and reputation, but "they'll take the money," according to a new survey from CPA Trendlines. While nearly half of the surveyed professionals say they are "decidedly opposed" to PE, the rest would do a deal for the right price (or they have already done a deal or have one pending). This year, through May 31, the CPA PE Deal Tracker shows 92 "meaningful 2026 events," including 81 M&A deals.

Sizing Up the Multiple: An Empirical Analysis of Target Scale and Valuation in Manufacturing M&A

A study published in the Journal of Applied Business and Economics examines 263 manufacturing M&A transactions from 2023 to 2025 to determine how company size and profitability affect EV/EBITDA

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Five Reasons Why Deals Fail Post-LOI

After signing a Letter of Intent (an "LOI") to sell the business, an owner might think that it's time to celebrate. Executing an LOI is an important milestone in selling because it means that:

- There were successful negotiations with an interested buyer, and,
- The parties signed a document agreeing to the price and terms of a sale.

However, rather than celebrate, an owner should continue to operate the business as usual. Executing an LOI is more like starting the race rather than crossing the finish line. While it is a signed agreement between willing parties, most terms of an LOI are non-binding. Typically, only two of the many possible terms of an LOI are binding:

A. terms relating to the confidentiality of the parties, their information, and that they're discussing a deal, and, very importantly,

B. terms authorizing a period of exclusivity for the buyer to conduct due diligence on the subject company.

Deals are contingent upon buyers successfully completing due diligence (typically lasts 60-90 days). (Deals may also be contingent upon the buyer obtaining adequate financing, among other conditions/occurrences.)

Due diligence begins with a thorough investigation of all aspects of the company by the buyer and its representatives, often starting with a Quality of Earnings study (a "QofE"), or some other in-depth analysis of:

- the company's financial statements,
- its adjusted earnings (and sustainability thereof), and/or,
- its anticipated earnings.

Perhaps midway through due diligence, after the buyer:

- has verified that the company's information is

accurate,

- understands the workings of the business,
- has confirmed that this is the right deal for their objectives, and,
- has secured the financing for the deal,

they will authorize their legal team to work on the binding legal document that will finalize the deal (often called the "Stock Purchase Agreement" or "Asset Purchase Agreement" or some other similar variation).

Deals rarely fail post-LOI because the parties change their minds. After an LOI is executed, deals are terminated because something meaningful occurs or is learned during due diligence, such as:

1. **Financial Performance Not as Presented or as Expected.**
   a. Revenue recognition issues
   b. Earnings not replicable
   c. Adjustment discrepancies/disagreements
   d. Projections inaccurate
   e. Performance noticeably worse or better
2. **Indemnification Disagreements**
   a. Caps on seller liability (5%-10+% of purchase price)
   b. Survival periods (12-24 months)
   c. Baskets and thresholds
   d. Fundamental vs. general reps
   e. Sandbagging/Anti-sandbagging
3. **Working Capital Disputes**
   a. Definition of working capital
   b. Calculation of working capital
   c. Amount of target working capital
   d. Baskets and thresholds
   e. Amount and duration of working capital escrow
4. **Skeletons Emerge from the Closets**
   a. Contingent liabilities
   b. Lawsuits
   c. Illegal activity
   d. Unpaid taxes or bills
   e. Unregistered business activity
5. **Changes in Economy, Lending/Financing, or Buyer/Seller Market**
   a. Economic uncertainty and/or stock market volatility
   b. Meaningful interest rate changes
   c. Negative change of buyers' financial circumstances
   d. Deterioration of lending/financing conditions
   e. Disruptions in the related industries

Closing Thought

Most of the issues that result in a failed deal after signing an LOI can be prevented. Owners and the company's information should be thoroughly prepared for the sale prior to talking with any buyers. Gaining clarity on potential issues before going to market, not during the period of exclusivity, is the best way to maximize value and the certainty of closing the deal post-LOI. When the deal is closed, then it's time to celebrate!

By: Andrew Wilusz, VMI Director of Mergers & Acquisitions. Contact Andrew to discuss the above or other M&A issues at: AMW@ValueManagementInc.com

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valuation multiples.

The authors find that larger targets consistently receive higher multiples, even after controlling for profitability and industry effects. More surprisingly, firms with higher EBITDA margins tend to receive lower multiples, suggesting that buyers often place greater value on future growth opportunities than on already-optimized current earnings. The findings reinforce the importance of considering size, scalability, and growth expectations when selecting and applying market multiples, and caution against assuming that higher profitability automatically translates into higher valuation multiples.

Rising M&A Disputes Put Valuation Assumptions Under Scrutiny

A new 2026 M&A disputes report finds that, as deal activity rebounds globally, disputes are increasing not only in volume, but also in value—placing greater pressure on the valuation assumptions embedded in transaction structures. Nearly two-thirds of deal professionals expect dispute volume to rise, while 72% anticipate higher average dispute values, reflecting growing complexity in deal terms and post-closing outcomes.

Disputes are most often rooted in performance shortfalls and mismatches between expectations and reality. Financial and operational performance remains the leading trigger, but macroeconomic volatility—interest rates, currency swings, and geopolitical factors—is playing a larger role in challenging valuation inputs and deal pricing.

The report also highlights the increasing importance of valuation-sensitive deal mechanisms, particularly earnouts, purchase price adjustments, and representations and warranties. Earnouts in particular are emerging as a leading source of conflict as parties test assumptions made under uncertain conditions.

More than one-third of respondents cite these post-closing provisions as a primary driver of disputes, underscoring how valuation gaps are being deferred rather than resolved at signing.

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