

# Planning Concerns of Divorcing Couples

With some preparation and planning, you can take charge of your financial well-being during the difficult divorce process.



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## Why is it important for you to understand the basics of divorce law?

While divorce is certainly a time of emotional turmoil, it is a time of financial upheaval as well. The financial changes brought about by divorce can be particularly overwhelming to families with children, and to older couples who have assigned the career duties to one spouse and the homemaking duties to the other.

When seeking a divorce, you should become familiar with a few major topics: marital property versus separate property, alimony, debt, retirement plans, taxation, budgeting, child custody and child support.

By becoming knowledgeable about these areas, you can provide your attorney with a complete outline of your wishes regarding the divorce settlement, and you will be able to make an informed decision before signing your divorce agreement.

## How is property classified for divorce purposes?

Assets are divided in accordance with state law, so it makes a difference whether you live in an equitable division state or a community property state. Pennsylvania and Florida, like most states, follow equitable distribution laws. In these states, property acquired during the marriage belongs to the spouse who earned it. In case of divorce, the property will be divided between the spouses in a fair and equitable manner. There is no set rule in determining who receives what or how much.

Community property is observed in the following states: Alaska (by agreement), Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin. In a community property state, the spouses are deemed to equally own all income and assets earned or acquired during the marriage. This means that both the husband and wife are deemed to equally own all money earned by either one of them during the marriage, even if only one spouse is employed. In addition, all property acquired during the marriage is deemed to be owned equally by both the wife and husband, regardless of who purchased it. In a community property state, equal ownership also applies to debts. In most cases, this includes unpaid balances on credit cards, home mortgages, and car loan balances.

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### What should you know about child custody, child support and alimony?

When parents separate and divorce, one of the most emotionally charged issues involves the decision regarding which parent will live with the children. Child custody is based on a number of factors. Most judges place primary importance on the best interests of the children. Custody may be classified as physical or legal, and can be awarded to one or both parents.

Most states have child support guidelines for determining the amount of child support to be paid. Child support orders can be modified when there's a substantial change in circumstances, and most states provide a number of methods for collecting unpaid support.

Alimony is also an important topic, particularly to spouses with custody of minor children. Alimony is based on one party's need and the other's ability to pay. Deciding whether a spouse should receive alimony (and, if so, how much) is based on certain criteria, which can vary from state to state.

### What should you know about budgeting and finances?

During the divorce process, both spouses must determine and disclose their monthly income and expense needs. Claims for support (based on need and an evaluation of the other party's ability to pay) are based on this financial affidavit. It's not uncommon in a marriage for one spouse to assume primary responsibility for the family budget. For some couples, bills are paid when due, but neither party tries to stick to a budget. When two households are created as the result of a divorce, cash flow may be tighter and it becomes necessary to develop a budget.

### Do you need to know about risk management and Social Security?

Risk management should certainly be considered when a divorce seems likely. The selection of beneficiaries for your life insurance policy will probably be revised, and, in some cases, your health insurance coverage may terminate. For example, one spouse participates in a group health insurance plan at work that provides coverage for both spouses. When a divorce occurs, coverage for the non-employee spouse may end. You need to know your health insurance options, and how life, disability and property insurance should factor into your divorce agreement.

Social Security may be an issue if you're an older individual seeking a divorce after a long-term marriage. Be aware that if you've been married to your spouse for at least 10 years, you may (in certain cases) be able to qualify for Social Security benefits based on your spouse's record, even after your divorce.

#### What should you know about taxation?

If you're legally separated or divorced, it's important to become familiar with the applicable tax rules regarding filing status, dependent children, alimony, and property disposition. Indeed, understanding the tax implications of your initial preferences regarding child custody and property settlement may alter or influence your final decisions.

Your financial advisor can help you plan throughout this life-changing development, as well as work in collaboration with your attorney to ensure your stability.

#### What information should you gather before consulting with an attorney?

Before sitting down with an attorney to commence a divorce, go through the following list to make sure you provide all relevant information:

- Each spouse's name, address, telephone number
- Each spouse's date of birth
- Names and birth dates of children
- Date and place of marriage and length of time in present state
- Existence of prenuptial agreement
- Information about each party's prior marriages, children, etc.
- Date of separation and grounds for divorce
- Current occupation and name and address of employer (both parties)
- Social Security number of both parties
- Income of each party
- Education, degrees and training of each party
- Extent of employee benefits for each party
- Joint assets of the parties, including: houses, or other real estate, investments, bank accounts, individual retirement accounts (IRAs) and other assets
- Joint and separate liabilities and debts of the parties
- Life and other insurance of each party
- Separate or personal assets of each party, including retirement plans, trust funds and inheritances

- Financial records, including: bank statements, tax returns, loan applications and investment statements
- Family business records, including: type of business, shareholder's percentage of ownership, bank statements of business, tax returns of business, applications for loans, income and balance sheets, financial reports and buy-sell agreements
- Collections, artwork and antiques

Obviously, you won't have all of the above information and documentation at your fingertips. Provide what you can and the rest can be determined during the divorce discovery process. Your financial advisor can help you plan throughout this life-changing development, as well as work in collaboration with your attorney to ensure your stability. □

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