

Getting Divorced

Is it possible to financially prepare for divorce? A plan for the termination of the financial partnership of the marriage is crucial if you are thinking of divorce. All financial assets and liabilities that have been acquired during the years of marriage will need to be divided. If children play a role, the support that will be paid to the custodial parent in the future should be taken into account. The following are a few steps to consider:

- ✓ Prepare an inventory of your financial situation that will help you in two ways:
 1. It will aid in determining how debts accumulated during the marriage will be paid off. (It is best to try and get all the joint debt (credit card debt) paid off before the divorce. To come to an agreement as to the method for paying them off, it is smart to make a list of the debts.)
 2. It will give you an introductory look at the information needed to divide the property.
- ✓ Prepare a list of all assets, whether joint or separate, that includes:
 - Your residence(s)
 - The value of any brokerage accounts
 - Your valuable antiques, jewelry, luxury items, collections, and furnishings
 - The current balance in all bank accounts
 - Your autos
 - The value of investments, including any IRAs
- ✓ Locate copies of the last two- or three-years' tax returns. These will be beneficial later.
 - Know the exact quantity of salary and miscellaneous income brought home by your spouse and you.
 - Obtain all papers regarding insurance, life, health, pension, and other retirement benefits.
 - Make a list of debts that are owed both separately or jointly, including mortgage, credit card debt, auto loans and other liabilities.

How should credit card accounts be dealt with during a divorce? As soon as you know you are going to be getting a divorce, immediately cancel all joint accounts. Regardless of who accumulated the bill, creditors can legally try to collect payment from either party on the joint credit card or other credit account. You will be responsible for payment as long as your name appears on the joint accounts. The agreement that is reached during the divorce may state who must pay the bills. From the creditor's point of view, both your spouse and you are responsible as long as the joint account stays open. The creditor will attempt to receive payment from who they think are most likely to pay while reporting late payments to the credit bureaus in both names. Due to the irresponsibility of the co-signer, your credit history could be harmed. You may be required to pay the remaining balance in full upon closure of the account. If this is the case, ask the creditor to distribute the outstanding balance to separate accounts.

What can I do when my current or former spouse's bad credit affects me? It is possible to separate yourself from your spouse on your credit report, if the spouse's credit is hurting yours. If you can prove that he/she opened the shared accounts prior to marriage and that he/she pays the bills, you might succeed in convincing the creditor that the damaging information is relevant to your spouse and not you. It may take persistence to demonstrate that the credit history in question doesn't reflect your own.

After a divorce, what happens to my credit history? If the name on your account changes, lenders may appraise the application and credit line to decide if your qualifications meet the credit standards. You may be asked to reapply. To avoid inconvenience, maintain credit in your own name. Preserving your own, separate, credit history makes things easier in the future. In an emergency, if you need credit, it will be available. Avoid using your spouse's name - i.e. , Mrs. Peter Johnson - for purpose of credit. Get an update on your credit report. Be sure that your name, as well as your spouse's, is being reported correctly. If you would like to use your spouse's credit history to your benefit, simply write a letter to the credit agency and request that both names be put on the account. Find out if there is any incomplete or inaccurate data in your account. Send the credit bureau a letter asking them to correct this information. They need to confirm receipt within a normal time period and inform you when the mistake is fixed. Improving your own credit history in your name should be simple if you have been sharing accounts with your spouse. Make a call to a major credit bureau and ask for copies of your account information. Get in touch with the issuers of the cards with whom you share accounts with your spouse and request to have your name on the account as well.

Continued on other side →

To access additional articles go to www.vta.com website and choose Financial Guides.

Getting Divorced (cont.)

During a divorce, what are the legal issues that must be handled? Make an agreement with your spouse to plan for the legal issues that will be dealt with in the future, such as division of property, alimony or support payments and child custody. The amount of time and money that will be spent trying to reach a legal solution will be lessened dramatically if this can be done, either with the help of lawyers or court. The following are general tips to face the legal aspects of divorce:

- If there are important issues with regards to child custody, alimony or assets, find your own attorney.
- Use referrals from other professionals, trusted friends or the American Academy of Matrimonial Lawyers (www.aaml.org) to find a good matrimonial lawyer.
- Verify that the agreement of divorce approaches all topics such as insurance coverage, life health and auto.
- On IRA accounts, life insurance policies, pension plans, 401(k) plans, and other retirement accounts make sure to modify the beneficiaries.
- Update your will.

How does the division of property in a divorce work? Each state has their own laws regarding the division of property between ex-spouses. When it comes to applying those laws, matrimonial judges have a great amount of flexibility. Whether or not an attorney represents you, you should make sure to have done the following:

- Learn how the laws of your state function with respect to property division.
- Make sure to have the papers to confirm that property owned separately during the marriage has been kept separate.
- Be prepared to report any non-financial contributions to the marriage that you have made - such as any non-financial contributions to his/her financial success or spousal support while he/she went to school.
- Be willing to report any need for alimony or child support.

Consider having the divorce agreement supply you with funds if you have not worked outside of the home during the marriage.

With a divorce, what are the tax implications?

Upon completion of a divorce, individual tax returns will be filed. There are a few areas that may result in tax consequences. The following are the most common:

Child Support - It is not taxable to the recipient and is not deductible by the payer. If it is specially designated as child support in a divorce agreement or lessened by the occurrence of a contingency relative to the child, meaning a child reaches a specified age, it is considered as a payment.

Alimony - It may be taxable to the recipient and deductible by the payers. It is known as a payment in accordance with a divorce agreement other than child support or when allocated in the decree as something other than alimony. In a separation agreement, similar treatment is in accordance with separate maintenance payments. Payments may not end upon death of the recipient and may not be front-loaded. The tax treatment of alimony will depend on the effective date of your agreement. Please consult your attorney for clarification.

Property Settlements - When in accordance with the divorce or separation, they are not taxable. In the event of transfers of assets amongst spouses, they do not become taxable income, gains, losses, or deductions. The recipient spouse gets the cost basis of the property. Your spouse may provide you with an equal share of the property based on a fair market value but be careful with the lower basis. In the end, it can produce a taxable gain at the asset's sale.

When retirement plans or IRAs are divided in a divorce, what happens?

If in accordance with the qualified domestic relations order or other order of the court in the case of an IRA, these plans are separated as non-taxable. However, this is the case only if the assets stay in the retirement account or IRA. Once the funds are allocated, they will be taxed to the recipient. The payer does not get the benefit of a deduction and the recipient does not have taxable income when divided.

Is the cost of getting a divorce a deduction? Typically no, although specific fees paid for income or estate tax advice due to the divorce may be deductible. The fees used to decide the alimony amount or to collect the alimony may be deducted. These would be subject to the 2% limitation under the miscellaneous item deductions.

Am I entitled to deduct the dependency exemption of a child after divorce? Typically, the custodial parent has the right to the deduction. This is normally discussed in divorce agreement negotiations. If agreed to in writing, the non-custodial parent may have the deduction.

To access additional articles go to www.vta.com website and choose Financial Guides.