

Financial planning considerations when navigating a divorce



Total Wealth Planning, Scotia Capital Inc.

Taking control of your finances during a divorce

A divorce can impact many aspects of your life, including your family dynamics, living arrangements, lifestyle, and financial situation. Proper preparation and planning can help you protect your finances, preserve family harmony, and take charge of your financial well-being. Consider creating or revisiting your financial plan as you go through this significant life transition.

Here are some key considerations to help you make strategic financial decisions during a divorce.

Factors that can increase spending

From hiring a legal advisor to guide you through the divorce process to engaging an accountant to help you plan for asset distribution, divorce can be costly. There are other expenses that you might not think to consider:

- **Child health, personal care and extracurricular costs** — From new travel costs between households, additional therapy costs, sports or school events, and expenses for dependants may increase.
- **Living expenses** — Since you will be solely responsible for running your household, you will need to cover all living expenses. With utilities, food, mortgage, and home maintenance, your living expenses may also increase. Additional costs may be incurred for dependent children to maintain a consistent lifestyle in two separate households.
- **Childcare expenses** — Consider if additional childcare will be needed when both parents live in separate homes because it may be more difficult to coordinate vacations or personal time away from work.

Your support payment options

Whether you are paying or receiving support payments, the type and length of support will directly impact your financial

plan. When contemplating support payments, it is important to consider the following:

Spousal support

- Can be settled either as a lump sum or as a monthly payment for a specified number of years.
- Generally, periodic spousal support payments are taxable in the hands of the receiving spouse and tax-deductible to the paying spouse. Note that periodic support payments made to a spouse before drafting a written agreement may not be fully deductible for tax purposes.

Child support

- Typically, couples strike a monthly payment arrangement until their children reach the age of majority or have completed their post-secondary education.
- Generally, payments agreed upon after 1997 are not tax-deductible to the paying spouse nor taxable to the receiving spouse.

Length of support payments — Child support may continue while your children attend university and are dependent. Spousal support may be finite or indefinite. Ensure that any support is appropriately reflected in your financial plan and budget.

Determining support payments — Support can be paid based upon a parent's earnings or performance-based compensation. When compensation is commission-based or tied to performance metrics that can fluctuate from year to year, you may agree on a flexible component to adjust support based on the person's annual income fluctuation. This should be reflected in your financial plan.

How to make financial projections during the negotiation process

Your advisor at Scotia Wealth Management can partner with you to draft financial projections to help clarify your financial situation through the divorce process. These projections can examine various scenarios while making assumptions on how you will settle a matrimonial agreement.

Some questions to keep in mind while preparing for the negotiation process are:

- How will any increased spending be split between both parties?
- Will assets need to be sold to provide liquidity?
- Will downsizing your home be part of the plan?
- Will one party purchase some of the other's assets?

Dividing debt

During the divorce process, it is critical to ensure that required payments continue to be made on mortgages, lines of credit and credit cards to avoid impacting your credit rating or reputation. Debt can be difficult to divide, as one or both spouses may not have enough equity or a strong enough credit rating to assume debt on their own. Early consultation with your lender can help you determine next steps.

When thinking of debt during divorce, consider the following questions:

- *Is there existing debt that must be accounted for?*
Debt may be fixed with a repayment schedule or have variable access to proceeds based on an approved credit limit. Especially in an acrimonious divorce, it is essential to restrict access to credit that increases any joint obligations.

- *Will each party be able to qualify for financing on their own?*

Often, the spouse with a lower income may have little or no credit history individually, particularly in families that decided to have a stay-at-home parent.

- *Will there be a material change to the terms of any existing debt if one person is removed from the agreement?*

Mortgages or fixed-term debt will often have pre-payment penalties that may arise with a change to the contract. Other debt arrangements may give the lender the right to demand payment should the strength of the security or the borrower be of concern. Communication with your lender can help, so keep them informed of your situation.

- *Can the legal title to property be changed as appropriate, and does it coincide with a change to associated financing?*

The property may be currently registered jointly, and each of you are jointly and individually responsible for the debt associated with the property. This means that, if necessary, the property may transfer to one individual only who will assume responsibility for paying the outstanding liability. It is important to update the legal title registration and registered security appropriately.

Splitting private corporations, partnerships or joint ventures

When ownership of a private corporation or partnership interest is owned by one or both spouses, it can add complexity to any negotiation process. Depending on how the business is structured, certain considerations would preclude one of you from holding ownership. Contemplate the following issues:

- Is there a unanimous shareholder, partnership or joint venture agreement that prescribes what happens in the event of a divorce?
- Are there restrictions through an agreement or regulatory bodies on who can have ownership?
- How will the division of ownership interests affect other existing owners of the business?

- How will the business be valued? Consider engaging a business valuation specialist to determine the appropriate fair market value. Ask your advisor for an introduction.
- Is there corporate-owned life insurance that must be considered?

Life and medical insurance

Payments of life and medical insurance could be part of your divorce settlement and may be subject to negotiation. As the ownership and beneficiaries of the insurance will likely change, consider the following questions:

- Who will pay the premiums?
- Will there be a change in ownership of any policies?
- How will any existing jointly owned/insured policies be treated?
- How will insurance or cash surrender value be used to equalize the division of assets?
- Are there any tax consequences to changing the policy?
- Will there be a change in beneficiaries for any existing policies?
- Will beneficiary appointments be irrevocable?
- Will insurance be required to cover support payments in the event of a death or disability?
- Are there any health issues that may affect eligibility?

How pensions play a role

Many pension rules include a requirement to pay a survivor pension to a surviving spouse. If the pension or locked-in retirement account is subject to division, the manner of

division will depend on the regulating federal or provincial legislation. In many circumstances, spousal waivers will be required to divide the pension or locked-in retirement account to stipulate that the former spouse will not continue to be entitled to survivor benefits.

Please consult with your legal advisor and your Scotia Wealth Management advisor to learn more.

Consider the allocation of government payments and other tax implications.

There are various Canadian government benefits and tax credits that benefit individuals as part of a family unit. When filing your tax returns as separated or divorced individuals, both spouses should consider the divorce's tax implications. Refer to our article [Tax Implications of a Divorce](#) on our [Enriched Thinking Library](#) to learn more.

Updating your estate plan

As with other major life events, you should work with your legal advisor to update your estate planning documents to reflect your new circumstances and current wishes. These include your Will, Powers of Attorney and personal directives.

Where you have named your former spouse as a beneficiary on registered accounts such as RRSPs, RRIAs, locked-in accounts, TFSAs, pensions and life insurance policies, consider a change in beneficiary to reflect your current wishes. Seek support from your Scotia Wealth Management advisor, life insurance consultant and pension administrator to update your beneficiaries accordingly.

Going through a divorce can be a complicated and emotional process. Your Scotia Wealth Management relationship manager can help you navigate the complex financial decisions during a divorce and plan for your future goals.

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