



4 THINGS TO KNOW ABOUT DIVORCE & YOUR FINANCES



SYNOPSIS:

Even the most amicable divorce can have a significant impact on your finances. Knowing the laws that govern the division of assets during a divorce is an important first step in protecting your financial health throughout this difficult period.

The division of assets in a divorce depends on the state where you live. Judges in community property states typically divide assets equally. Judges in common law property states typically apportion assets based on a variety of factors. The same is true for debts.

Retirement assets are also divisible in a divorce. To avoid tax liabilities on any 401(k) assets you may receive, arrange to have them rolled over directly into an IRA. Qualified Domestic Relations Orders are used to protect the divorced spouse's interest in future retirement payments. Above all, you should consult with a divorce attorney before proposing or making any settlement.

Divorce Decree

Divorce can be a complicated and challenging process in which details are easily overlooked. Protecting your financial health during this time is crucial, and no one should enter this process without a trusted attorney (specializing in divorce) on his or her side.

Equally important is knowing the laws that shape divorce proceedings, and the impact they can have on your assets.

County: _____

Strict Court _____
Court Address: _____

n re the Marriage of:
Petitioner: _____
and
Co-Petitioner/Respondent: _____

DECREE OF DIVORCE

This matter was _____

☐ Appeared
☐ Signed a Non-Appeal
☐ Was represented by an attorney
☐ Was represented by an attorney

☐ The Court has considered any and all evidence presented
☐ The Court has considered any and all evidence presented
☐ The Court has considered any and all evidence presented

1. The Court has jurisdiction over the subject matter because:
The Petitioner filed jointly on _____ (date).
The Respondent _____ (name) was served with a Summons on _____ (date).
The Respondent signed a waiver of service on _____ (date).
The Respondent has subject-matter jurisdiction based on _____ (date).
Other jurisdictional grounds: _____

2. _____

3. _____

4. The marriage of _____ and _____ is irretrievably broken for more than _____ months.

5. ☐ The Separation Agreement between the parties, including residence, allocation of property, and is in full force and effect.

6. ☐ All provisions in the parenting plan regarding residence, allocation of parenting time, and any other orders necessary for the best interests of the child.

7. ☐ The name change request is not denied.

COURT USE
Case Number: _____
Division: _____
LEGAL SECTOR: _____
Petitioner: _____
Respondent: _____
Signed: _____
Was: _____
Attorney: _____

1. DIVIDING THE ASSETS

As a general rule, assets and property acquired during the course of a marriage are divided when the spouses divorce. While there may be exceptions for individual inheritances, gifts to an individual spouse, and assets or property acquired before marriage, the big difference among states is what formula might be followed for the division. The state laws on this generally fall into one of two categories.

- Common law property states are those where the judge may consider a wide range of circumstances before ordering a division. Among the factors are each spouse's earning ability, the length of the marriage, and how much each spouse contributed to building household assets.
- Community property states are those in which assets and property acquired during the marriage are divided more or less equally.

Most states follow the common law principle. The exceptions are Alaska (community property optional), Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.

IMPORTANT!

Don't try to hide assets from the court, either by neglecting to mention them or transferring them after the proceedings have begun. This can trigger penalties and additional court actions.

2. DEALING WITH DEBT

Divorce does not eliminate debt, it divides it between the two spouses. But as with assets, practices differ.

- In a Common law property states each divorcing partner generally gets responsibility for the debts he or she incurred in individual accounts. Debt in joint accounts -- or debt attached to jointly-owned property -- is generally divided in the same way as the marital assets.
- In a Community property states, debt -- like your assets -- is typically split down the middle, without regard to whether the debt had belonged to a joint account or to an individual account held by either spouse.

IMPORTANT!

One important trap to avoid is maintaining joint accounts after the divorce.

Your spouse could continue running up expenses and leave you with the debt. As soon as the divorce is finalized, consider freeze all joint accounts and

have your creditors reclassify them as individual accounts. Most creditors will do this at your request, though they are not legally required to do so.

To protect your credit rating, make sure to keep up with monthly payments.

3. RETIREMENT ASSETS

Money in either spouse's 401(k) or pension plan may legally be divided during a divorce. To claim a share of a spouse's 401(k) or pension plan benefit, you need to obtain a court order called a Qualified Domestic Relations Order (QDRO) and provide it to your spouse's plan sponsor before distributions are completed to your spouse.

If you do receive a share of a spouse's 401(k) assets or pension plan benefit, it may be best to roll over your share immediately into an individual retirement account (IRA) to avoid taxes and maintain tax deferral. You may want to discuss this with your attorney or a financial advisor familiar with divorce proceedings as soon as you anticipate a divorce.

4. ESTATE PLANNING

Be sure to review your will or, if you don't have one, draw one up. You could consult an attorney familiar with your state's estate laws to ensure that your assets are properly distributed. Do not wait until the divorce is final. You could review and amend your estate plan at the same time you decide to commence a divorce proceeding. Also make sure to review beneficiary designations for pensions, 401(k)s, and life insurance policies. Federal law requires a spouse to be the sole beneficiary of pension or 401(k) benefits unless that right is waived in writing by the spouse.

If you find yourself faced with divorce, it can be essential to strive to preserve your financial future. Enlisting the help of an attorney and carefully monitoring the process can help confirm that your interests are considered and that you won't need to revisit the proceeding later on.



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