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Financial Planning During Divorce

We have all heard the statistics – unfortunately, something like 50% of all marriages end in divorce. Going through a divorce can be difficult both emotionally and financially. It is a very challenging process to fairly divide your assets and figure out how you are going to create two households from one with the same total income. It is even more difficult if you don't feel financially savvy and are concerned your spouse may take advantage of your lack of wisdom. There are many financial issues that need to be decided. As there isn't space here to discuss all of them, I am going to just touch on those subjects that in my opinion seem to frequently get overlooked.

One of the first things someone should immediately consider doing when they know for sure that they are going to divorce is to update their estate documents. Presumably the soon to be ex-spouse is the primary beneficiary in the will, executor of the estate and power of attorney designee and this may no longer be desirable. There is no law against changing your will and power of attorney before the divorce is final. You should also consider changing the beneficiary on your IRA's, 401(k) and other retirement plans. In some cases you may need to have your spouse to sign off on the change so it may make sense to wait until the divorce is final but sometimes you can remove him as a beneficiary without his permission or knowledge even while you are married. And, don't forget to consider changing the beneficiary of your life insurance policies as well.

Another issue that is frequently not understood well is that the fair value of an asset may not be its current value or face value. For example, a $100 of stock with a low cost basis might be worth far less than $100 of IRA assets because the IRA asset is going to grow tax-deferred and the stock will have a capital gain tax when it is sold. A $150,000 home is worth much less than $150,000 of cash, particularly if there is a mortgage on the house. If you are going to own the home, try to at least value it at the net equity value (sales value less mortgage). In my opinion, a house is worth less than cash or even an investment asset because a home is not a liquid asset that can be easily and quickly converted to cash and there are on-going expenses related to the home. So, when you are discussing how to divide up your assets, try to obtain those assets whose actual value may be greater than the current face value.

Also, if you have dependent children be sure to run a couple of tax projections so you understand what the value of the dependent exemption will be for both you and your spouse. Many people just waive their right to the exemption without ever really understanding the dollar value of what they are giving up.

Over time, having the exemption for the children could amount to thousands of dollars saved on income taxes.

Alimony is typically a tax deduction for the person paying the alimony and is therefore taxable income for the person receiving alimony. But, if you both agree and you have it in writing in the divorce decree you can choose that alimony will not be taxable income for the person receiving it and it will not be a tax deduction for the person paying it. If alimony is to be paid, look at the tax impact for both parties to see what may make the most sense. Sometimes a person can negotiate a higher alimony payment if they can show the tax benefit the payer may receive.

Another suggestion is to not forget about your long term needs. I have found that many times people are so focused on how they are going to manage day to day they forget to factor in a buffer to build up the cash reserves for emergencies and to ensure that they are going to be able to save enough for retirement and other goals. This is particularly true when one party has a substantially higher earning power than the other. Yes, you absolutely want to ensure that you can meet your expenses today but also try to project out into the future to make sure you are not overlooking something critical (like retirement!).

I have a number of women clients who became clients after the divorce was final and they suddenly had to figure out how to survive on their new income. I also have clients who hired me at the beginning of the divorce proceedings. In my experience divorce attorney's, while competent on the law, are not as proficient at helping their clients understand the financial impact of what they are agreeing to and some minor changes in the divorce decree could have a significant impact on the finances of the divorcee. My intent here is not to be self-serving but to point out that having a competent financial planner help with the financial negotiations can be invaluable because it provides more detailed analysis of the various options. A financial planner can help you understand the long term ramifications of any decision you may make, suggest alternatives, help ensure you are not overlooking something critical and assist you in developing a fair settlement. The knowledge and education gained by working with an expert planner can provide you with extra strength and confidence during an emotionally charged period when you most need to think clearly and rationally.

If you are divorcing hopefully your financial discussions will proceed smoothly. By educating yourself on the nuances of all the decisions to be made, examining all the alternatives and understanding what the long-term ramifications of those decisions may be you should be able to develop a fair settlement.