

Frequently Asked Questions - Divorce

1. **Do I need a lawyer to get divorced?**

No, but it is strongly recommended that you hire a lawyer to represent you. There are legal forms to complete and a lawyer can advise you of any issues or ramifications that you have not considered. A lawyer will help you understand the terms of your settlement agreement.

2. **How is property divided in a divorce?**

The laws governing division of property between ex-spouses varies from state to state. Some states follow Community Property laws and others use Equitable Distribution. Tennessee is an Equitable Distribution State. Judges also have discretion in dividing property. Property will be categorized as either marital or non-marital.

3. **What are the tax implications of divorce?**

After divorce, each individual will file their own tax return. Your filing status for the entire year is determined on December 31st.

- **Child Support** – is not deductible by the payer nor taxable to the recipient. A payment is considered to be child support if it is specifically designated as such in the divorce or separation agreement or if it is reduced by the occurrence of a contingency related to the child (such as attaining a certain age).

- **Alimony** – After January 1, 2019 alimony is no longer deductible by the payer and it is not taxable to the recipient. Agreements prior to this date remain with alimony being deductible by the payer and taxable to the recipient. Separate maintenance payments are treated in the same tax manner as alimony if made pursuant to a written separation agreement.

- **Property Settlements** – are not taxable when made pursuant to a divorce or separation. The cost basis of the asset carries over to the recipient spouse. It is possible to receive assets at a lower cost basis than fair market value. There can be tax consequences upon the sale of such assets.

4. **What happens when retirement plans or IRAs are divided in a divorce?**

Generally, there is no taxable event if the division is made pursuant to a qualified domestic relations order (QDRO) or other court order in the case of an IRA. This is true **only** if the assets remain in a retirement account or IRA. Once funds are distributed, they will be taxed to the recipient.

5. How is health insurance coverage affected?

Health insurance will continue to cover the children but will not cover your ex-spouse. Ex-spouses may seek COBRA benefits (applies to companies that have at least 20 employees) which will allow for coverage from your company for three years after the divorce.

6. Will I be eligible for Social Security benefits after my divorce if I have never worked?

If you were married for ten years or more and your spouse worked, you are entitled to one-half of your spouse's benefits.

7. How should credit card accounts be handled during a divorce?

It is important to cancel all joint accounts immediately once you know you are going to obtain a divorce. Creditors have the right to seek payment from either party on a joint credit card or other credit account, no matter which party actually incurred the debt. If you allow your name to remain on joint accounts, you are also responsible for the debt.

Your divorce agreement may specify which one of you pays the bills. As far as the creditor is concerned, both you and your spouse remain responsible if the joint account remains open. The creditor will try to collect the bill from whoever it thinks may be able to pay, and at the same time report the late payments to the credit bureaus under both names. Your credit history could be damaged.

Some credit contracts require that you immediately pay the outstanding balance in full if you close the account. If so, try to get the creditor to have the balance transferred to separate accounts.

8. Can I deduct the cost of getting a divorce?

You cannot deduct legal fees or court costs incurred for obtaining a divorce.

9. What is a Certified Divorce Financial Analyst?

A Certified Divorce Financial Analyst (CDFA™) is trained to help analyze the financial outcome of a divorce. They help determine the short-term and long-term financial impact of a proposed divorce settlement and can offer valuable insight into the pros and cons of different settlement proposals.