The Basics

Divorcing? 15 costly mistakes

If you let emotions rule when your marriage breaks up, the financial fallout could last for years. These pointers can help you focus on what's best for your future.

By divorce360.com

When you're going through the pain and emotional battles of a divorce, it's easy to overlook financial issues that can hurt you long after any hard feelings have healed. Here are 15 critical financial mistakes that you can't afford during a breakup:

Becoming a financial victim. If you suspect your spouse is planning a divorce, now's the time to make copies of all important financial papers, from property and investment records to bank statements, credit card bills and tax returns. Worried that your estranged spouse may liquidate or retitle marital assets? Notify the holder in writing and get a court restraining order. Watch out for cash in joint checking or brokerage accounts, and protect the cash value of your life insurance.

Not considering mediation. If assets are moderate, joint custody is workable and your spouse is agreeable to a fair settlement, mediation will save thousands of dollars in legal fees and emotional aggravation, and provide more flexibility than an adversarial legal process. Mediation won't work if one spouse is hiding assets or income, or is unwilling to consider the needs of the other.

Talk back: How has divorce affected your finances?

Hiring a combative lawyer as punishment. This is a bad idea for two reasons. First, except in extremely egregious cases, divorce settlements are determined by equitable-distribution laws, and courts will not punish your ex-spouse financially for being a bad person. Second, your attorney assumes carte blanche to increase hours spent on your case. High divorce costs mean less money left over for living. Treat divorce as a business arrangement, and get your revenge by living well post-divorce.

Failing to recognize your enemy: the Internal Revenue Service. Work with a divorce financial planner or tax accountant to minimize the total taxes you and your ex will pay during separation and after divorce, and share the money you save. Don't forget that both parties are liable for taxes due as a result of audits on joint returns. Don't count on the innocent-spouse rule to protect you.

Not producing an accurate budget. Invariably, clients underestimate or omit expenses when they produce their initial budget for temporary maintenance, and then later on in the divorce process they complain about being unable to pay bills. Use a financial professional to help you produce an accurate and complete budget.

Not evaluating a divorce settlement on an after-tax basis. The bottom line is the share of marital assets you get after the tax man gets his. Say your spouse handles all the investments and offers to split them 50/50. Sound fair? I suggest you look at the value of your assets relative to your spouse's on an after-tax basis. Then decide if you like the deal.

Failing to use computer models to evaluate settlements. If you are trying to decide whether a divorce settlement is equitable and workable, you certainly want to know how you will be doing financially three, five or 10 years down the road. There are many interactive factors you must consider, including assets, incomes, budgets, maintenance and child support, taxes, retirement plans, investments and educational expenses. Specialized divorce computer models can produce comprehensive and realistic analyses of your post-divorce lifestyle.

Bringing an emotional attachment to assets. The marital residence, the pension you earned, a painting purchased during your marriage -- these assets bring an emotionally charged debate to divorce negotiations. The fact is many women can't afford the family home on their own. A house is an asset that has a low return on investment (real estate appreciates at the rate of 2% or 3% annually) and is a major cash expense (mortgage payments, taxes, repairs, heat and electricity).

Continued: Your lawyer is not a therapist

Using your lawyer as a financial planner, therapist or messenger. One woman I spoke with ran up $35,000 in legal fees in just two months. Arrangements for her husband's parental visitations were made through their matrimonial lawyers. Attorneys generally charge $200 to $300 per hour ($450 for partners in well-known New York City and Los Angeles matrimonial firms) and are not skilled therapists or certified financial planners. If you need emotional support, career counseling or financial analysis, utilize qualified professionals and save big money in fees.

Accepting a settlement that isn't as good as it seems. Both spouses and children must make compromises in their lifestyles after a divorce. A settlement that does not give one spouse enough money to live on is likely to go into default in the future. Be fair, but verify the numbers. Get payments upfront whenever possible, even if you get less in total. Secure all payments with assets and insurance.

Disregarding the impact of inflation. The effects of inflation on the cost of a child's college education 15 years in the future, or retirement 20 years hence, can be dramatic. The rule of 72 is a simple way to judge the impact of inflation. If the inflation rate is 3%, the rule of 72 states that prices will double in 24 years (72/3=24). College costs at 5% inflation will double in 14.5 years (72/5=14.5).

Not waiting until a wife is eligible for her husband's Social Security. If a couple is married for 10 years or more, a wife is entitled to receive half of her ex-husband's Social Security at retirement. The husband's Social Security payments are unaffected. It's ironic that the average length of marriage for people who get divorced is 9.6 years. Waiting just six months longer will increase retirement options for a wife with no reduction in her husband's payments.

Forgetting to update estate documents. After heavily contested divorces, many people forget to change the beneficiaries on their life insurance policies, individual retirement accounts and wills. The result is that ex-spouses end up inheriting estates the decedent may have intended to pass along to children, a new partner or a favorite charity.

Failing to adequately insure the divorce settlement. Premature death or disability of your ex-spouse can result in loss of maintenance, child support, college tuition or property settlement. Life and disability insurance can guarantee your payments and your family's security. Also, don't ignore the high cost of purchasing individual health insurance.

Failing to develop a financial plan. One indisputable fact of divorce is that two households cost more to operate than one but income is unchanged. Many people start their post-divorce lives not fully understanding that their settlement must last a significant amount of time -- perhaps the rest of their lives. Financial planning can help people transition from married to single life by prioritizing financial goals, developing realistic expectations and producing written plans for allocation of financial resources.

This article was reported and written by Lee Slater for divorce360.com.

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