



# Dealing with divorce

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## Dissolving a marriage is a stressful and difficult time.

Not only is it emotionally turbulent, but it also requires both parties to undergo significant transitions.

Although state laws govern many of the monetary aspects of divorce, you can take steps now to protect yourself so that it is not financially devastating. By working with a divorce attorney and a financial professional, you can minimize the impact of divorce on your future. This brochure is designed to help you make informed decisions while you plan and prepare for the dissolution of your marriage.

Right now, it is hard to imagine your life after divorce; the financial and emotional impacts are all-consuming while you're in the process. However, taking the time now to map out your long-term financial future with a financial professional whom you trust will help you make better decisions for your future.

# The divorce process

## Filing a petition for divorce

Filing a petition for divorce with your court is the first step in the divorce process. The petition names the parties involved and the reason for the divorce. Because most states have no-fault laws, claiming irreconcilable differences is the most frequently named cause for divorce.

## Temporary orders

Temporary orders act like an interim decree and are issued by the court until the final divorce hearing. Common temporary orders include:

- Custody and visitation rights
- Child support arrangements
- Spousal support arrangements

## Discovery

The court mandates that specific financial information must be exchanged, such as income, bank statements, tax returns, loan information, receipts, credit card statements, and retirement plan statements.

## Mediation

Most courts request that the couple work out the terms of their settlement through mediation rather than litigation. A neutral party helps the couple negotiate terms of the divorce that work for both rather than having the judge decide the outcome. Because both parties have participated in settling the big issues through a third party, mediation encourages cooperation and and tries to minimize conflict.

## Trial

If mediation leaves any unresolved issues, they will have to be decided at a trial where the remaining issues can be argued before a judge. Trial is costly and unpredictable and not the favored path by most divorcing couples.

## Dissolution of marriage

The order of dissolution ends the marriage. The final divorce decree details child custody arrangements, spousal and child support, and how the assets and debts should be divided.



## Important paperwork that you will need

As you begin preparing for divorce, take the time to gather all the paperwork and information that will be needed during the discovery and mediation phases of the process. Advance preparation will save you time, money and stress.

## **Assess your current financial situation. You should have financial statements for the following:**

- Income of each spouse
- Credit card accounts
- Checking accounts
- Stock options
- Savings accounts
- CDs
- Brokerage accounts
- Mutual funds
- Pension and retirement plans, including IRAs

## **Organize copies of:**

- State and federal tax returns for the past five years
- Salary statements for the last six to nine months
- Wills
- Trusts

## **Group your insurance policies:**

- Life insurance policies
- Medical insurance policies
- Disability insurance policies
- Homeowner's policies
- Automobile policies

## **Collate real estate information:**

- Mortgage documents
- Home equity loans and/or lines of credit
- Ownership documents



## Dividing assets

Many people believe that when a marriage ends, assets are divided equally, but that is not always the case. When a marriage is terminated, all the assets accumulated during your marriage, as well as some future earnings such as pensions, are divided according to your state's laws.



## Two legal divorce guidelines are used for making a division of property:

### Community property

Community property is all property acquired during the marriage regardless of who earned the money to purchase or who holds title to the property. Some states handle divorce assets as community property. In those states, all marriage assets are divided 50-50. It's important to note that community property also means that both parties share the entire load of marital debt, even if one person acted alone to create the debt.

### Equitable distribution

Most states rely on equitable distribution to allocate divorce assets. Equitable distribution, however, does not mean that each person will receive half of everything. The court weighs factors to determine how each person will stand financially after the dissolution of the marriage. Some considerations used by the court for equitable distribution divorces are:

- Earning power and work history of each spouse
- Monetary value of homemaker responsibilities
- Length of the marriage
- Responsibility for providing and caring for children
- Property brought to the marriage by each spouse
- The age and health of each spouse
- Tax repercussions of divorce for each spouse
- Value of current properties
- Need for custodial parent to retain the home



## Dividing debt

In addition to all property that is accumulated together, debt also is divided during the divorce settlement. The court determines which spouse will be responsible for repaying the debt. Even if you and your spouse are divorcing amicably, it will pay for you to consult the best possible divorce attorney to ensure that you are not left holding all the marital debt. Your first step should be to request your credit report from the three credit reporting agencies: TransUnion, Experian and Equifax.

With the reports in hand, identify whether each debt is joint or individual. If possible, work with your spouse to assign responsibility for the debt. These are the most common solutions for divorce debt:

- Be aggressive and focused, and use joint funds to pay off all joint debts now. This is the only foolproof method to ensure that each party can begin anew without debt.
- One may choose to assume responsibility for the most debt. In return, you may receive more assets when the property is divided.
- Allow your spouse to assume most of the debt responsibility, and he or she may receive the most assets when the property is divided.
- Share equal responsibility for all debt. This is the most logical, but least chosen avenue because divorcing spouses often do not trust one another to pay down his or her share of the debt, leaving one person with the entirety.

## Divorce and taxes

Divorce is a very complex process. There are so many property, financial and custody issues to consider that it's easy to overlook the implications of divorce on your taxes. Tax laws regarding marriage and divorce frequently change, so engage a tax professional as you move ahead through each phase of the divorce process to ensure that the settlement will safeguard your tax interests. Notably, for divorce decrees after January 1, 2019, alimony is no longer deductible by the payor. A tax professional will educate you on the myriad aspects of divorce tax issues, such as:

- What divorce/attorney fees are tax deductible, if any.
- Which spouse can claim Head of Household status on filings.
- Which spouse receives exemptions for the children/dependents.
- Whether to file as Married-Filing Jointly or Married-Filing Separately and the financial impacts of each.
- Whether to continue filing joint tax returns after you have filed for, but not yet received, a divorce. Read IRS Publication 504 (<http://www.irs.gov/pub/irs-pdf/p504.pdf>) to ensure you are following the tax rules that apply for divorcing couples.

## Divorce and estate planning

Often overlooked in divorce proceedings, estate plans and wills are important issues to consider when you are dissolving your marriage. Most wills and estate plans name the spouse as the beneficiary or legal representative in critical situations such as death, disability and advance directives. Beneficiary designations are used to pass retirement plans, life insurance, and non-qualified annuities as well, so be sure to remove your former spouse from all beneficiary designations. All state laws consider you married until the final divorce decree is signed by the judge. Thus, if one spouse dies before the divorce is final, the other spouse will inherit according to the will.

Though many states do not allow a spouse to be removed from estate plans or wills before the divorce is final, divorce lawyers understand how to prepare temporary documents that name someone other than your spouse to handle your estate and affairs should you die during the divorce process. Also, you can work with your financial professional to update your beneficiary designations.



Dealing with a divorce can, indeed, be an emotionally and financially stressful time. Your financial professional will work with you to help map your new financial future so that you can move forward with your life.



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