Its In The Numbers

FORENSIC ACCOUNTANT

A Guide to Your Assets in a Separation

General information only, and not a substitute for advice from your family lawyer. I am neither a registered financial advisor nor a legal practitioner.

Understanding the asset pool

When a relationship ends, the law requires a just and equitable division of assets. The first step is identifying everything both parties own and owe, the asset pool, regardless of whose name an asset sits in or when it was acquired.

Assets owned before the relationship

It's a common myth that assets owned before the relationship are automatically excluded. They're included in the pool, though the court will weigh them as an initial contribution.

In a short relationship, the court is more likely to give that initial contribution significant weight. In a longer relationship, its significance tends to erode over time as both partners' contributions, financial, non-financial, and as homemaker or parent, are given more weight. How the asset was used matters too: a pre-relationship property that became the family home, paid for with joint funds, is treated differently from one kept entirely separate.

Asset transfers before a breakup

The court is highly attuned to attempts to reduce the asset pool before a separation. Where a partner is found to have deliberately disposed of an asset, the value can be notionally "added back" into the pool, as if it were still there.

For example, if one partner gifts $50,000 from a joint account to a family member shortly before separating, the court may add that $50,000 back into the pool and count it as part of that partner's share. Common add-backs include large unexplained cash withdrawals, an asset sold to a friend well under its worth, personal legal fees paid from joint funds, and reckless gambling losses. The court can also set aside and reverse a transaction outright, for example voiding a transfer of a house into a sibling's name to bring it back into the pool.

Why honesty is crucial

Both parties have a legal duty of full and frank disclosure, including any assets sold, transferred or gifted away. Undisclosed assets are usually discovered eventually, and doing so damages credibility with the court, potentially leading to an order to pay the other party's legal costs.

Your next step

– See a family lawyer or mediator, the most critical step; they can explain your rights and help you strategise for a fair outcome.

– Gather statements for all bank accounts, superannuation, credit cards, loans and investment properties.

– Seek independent financial and taxation advice early, since property settlements, business transfers and asset realisations can carry tax consequences worth understanding upfront.

How I can help

As a forensic accountant and business valuer, I help identify what truly forms part of the asset pool, including assets held in trusts, companies or another person's name, and can assist in uncovering missing assets, diverted funds or unexplained transactions, with expert reports to support settlement negotiations or court proceedings.

Next step: A short, no-obligation call is often the fastest way to scope the work. Book a 15-minute chat: https://calendar.app.google/f91JSWwK1KJRjScj9. Matters referred through a solicitor can generally proceed more efficiently, which helps keep overall costs down.

David Bay MBA | MIFA | IPA · Director, It's in the Numbers · david@itsinthenumbers.net · 0466 572 044 · itsinthenumbers.net