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34 Tips for Divorcing Spouses

The divorce process is a stressful one that can easily bring out the worst in people. Some people even see divorce as a way to seek revenge on a spouse by seizing money and assets.

Although divorce can bail you out of an unhappy marriage, it can also milk you for all you are worth if you don't know your rights. Check out these 34 tips to help you protect your assets and stay on the winning side.

1. Don't Let Emotions Lead Your Financial Decisions

Divorcing people often want to take out their hurt feelings on exes, however it's important not to let emotions interfere with the business at hand. In the long run, being spiteful could harm your own pocketbook.

Asking your lawyer to write a letter to your ex over who gets the \$50 coffee table book is kind of nonsensical. A short letter could cost you \$500 in attorney fees. Understanding that divorce can be costly, savvy petitioners opt to pick their battles.

2. Everything Is Divisible and Fair Game

Individuals often make the mistake of assuming that assets that are in their names can't be claimed by spouses in a divorce. However, divorce experts caution that the opposite is true. Practically everything is divisible, including frequent flyer air miles or royalties from a book you wrote.

Because the same holds true for liabilities like debt and credit cards, couples should be sure to consider all factors when doing their financial planning.

3. Keep Track of Your Spouse's Money

If you're thinking of filing for divorce or even marriage separation, it's a good idea to take a look at your spouse's financial situation. Spouses should start by tracking partners' new credit card and loan applications. People are more generous in their income reporting on credit or loan applications than they are in, say, their 1040. Loan applications could be crucial parts of a divorce discovery.

4. Gather Key Evidence Before Filing for a Divorce

If you're thinking of filing for divorce, it can be tough not to walk out the door when your spouse pushes your buttons. Take time to collect evidence before a split. Along with taking pictures of assets, individuals should make copies of account statements and jot down any important numbers. Preparation is key if you hope to come out ahead in court.

5. Get Property Valued Before You Part Ways

When it comes to divorce, almost all property is fair game. However, spouses can't hope to get their fair shares if they don't know the value of assets. There are experts available who can appraise just about anything. Doing your homework now is the best way to come out ahead down the line.

6. Meet with an attorney before separating from your spouse

Often times an attorney can give you useful tips to protect yourself, your children and your assets prior to actually separating. It is wise to consult an attorney as soon as you begin to consider separating or divorce.

7. Don't Hide Assets

You can try to deceive your spouse by hiding or concealing assets, but don't forget that you're also messing with the law. If what you're hiding is discovered, you'll lose your credibility in court. There could also be stiff penalties, including monetary sanctions. To protect yourself and your property during a divorce, it's best to declare all assets upfront.

8. There Are Hidden Tax Implications to Watch Out For

During a divorce, it's important to stay alert to hidden tax obligations. A husband might have purchased stock for \$50 during the marriage. The stock has gone up in value so that at the time of the divorce, the husband ends up transferring \$75 to the wife. If not otherwise addressed in the divorce settlement, the husband will be on the hook to pay taxes on the \$25 gain on the stock. Spouses who are receiving real estate, stocks or bonds need to understand that taxable gains can leave them vulnerable.

9. Get Job Training or Update Your Education Before Filing

If you are currently being supported by your spouse, you might want to consider taking the time to dust off your resume and freshen up your skill set before seeking a divorce.

Even if you receive support, the courts can impute income and expect you to be working if your kids are school aged and you are not of retirement age or disabled. Be cautious about depend[ing] too much on a hopeful spousal support award. Updating your education now can help protect you later if things don't go your way in court.

10. Familiarize Yourself With Finances Before You Split

Normally, one person in a household manages the finances. However, this arrangement can create a power imbalance when it comes time to negotiate settlements. So what can you do to protect yourself? Seek professional help to guide you in making more informed decisions about finances being filing for divorce. Doing this will help you come out swinging when you get your day in court.

11. Consider Mediating Your Divorce

It's no secret that divorce can be expensive. One way to cut down on these expenses is to use a mediator. A mediator doesn't work on behalf of any one party, just facilitates agreements. If you want to keep your divorce details behind closed doors while cutting costs, a mediator might be the best bet for both you and your bank account.

12. Know What is Your Biggest Asset

Many people mistakenly believe that their house is their biggest asset when it is actually a retirement or pension account. Even if your retirement account is less than robust now, the court will likely consider its future value when dividing assets. There are many ways to divide your portion of your spouse's retirement asset (called a qualified domestic relations order) so give that due consideration.

13. If Your Lawyer Recommends a PI or Forensic Accountant - Hire One

Many individuals are hesitant to shell out for a PI or forensic attorney when going through a divorce. However, private investigators are useful for investigating people who own small businesses, as independent data about numbers of customers, employees and resources can give a much fuller picture of a person's true finances.

Forensic accountants can give insight as to whether a person going through a divorce is getting accurate information from their soon to be ex-spouse. By spending a little now, you might be able to save yourself a bundle in the future.

14. The Most Expensive Lawyer Isn't Always the Best

Pick your divorce lawyer wisely, as it could save your bottom line. Find one that is experienced and knowledgeable, but is also a good fit for you. You have the power to set the tone for your divorce. The attorney should advise you, but also respect your position on how to approach the negotiations. Just because an attorney has a high hourly rate doesn't necessarily mean he or she will honor your wishes. For best results, go with your gut feeling.

15. Don't Forget About Beneficiary Designations

Many clients fail to remove former spouses from their beneficiary designations. If you fail to remove these designations, those amounts may end up being paid out to a former spouse. For best results, handle beneficiary designations and other tedious paperwork as soon as possible.

16. Pay Court-Ordered Attorney Fees

Court-ordered attorney fees are no joke. The court can order one spouse to contribute to the other spouse's attorney fees. When it comes to court-ordered attorney fees, the judge can throw the offending spouse in jail for failing to pay.

Spouses who are receiving financial help should have language drafted into agreements clarifying how much money must be paid, by what date, and if interest will begin to accrue on outstanding balances. Doing this gives spouses the ability to enforce the agreement should the paying spouse fail to follow through with his agreement.

17. Being the Higher Income Earner, You Might Not Necessarily Want to Ask for All of the

Deductible Items

Clients typically strive to get as much as possible in a divorce. However, higher incomes can disqualify individuals from important tax deductions. In light of this fact, individuals might not want all the items they originally requested in a divorce. For best results, speak to a financial professional about your specific fiscal situation and options.

18. Be Mindful of the Date When Initiating Divorce

While you might be tempted to file as soon as possible, it's important to note that property division is based on the date of filing for divorce or separation in South Carolina. Typically, the court uses a formal date of filing (DOF) to determine property division and the value of certain assets.

If you are expecting a large increase in the value of a major asset upon a certain occasion, be mindful of that when you decide to initiate the divorce. If you are close to the 10 year time frame, you may want to wait until you pass the 10 year mark for social security purposes. This is also relevant in military divorce situations.

19. Consider Wisely When Designing a Joint Parenting Arrangement

Unlike claiming a child as a tax dependent, claiming head of household is not assignable; individuals either met the criteria or did not. If you're negotiating who will claim a child as a dependent, you can include a provision that the right to claim the child is dependent on the parent being up to date on their support obligation.

20. Plan Finances for After Divorce

Clients often neglect to consider how their financial planning can change after a divorce. Your risk aversion may be very different than your former spouse[s] and you do not need to keep the same investment trajectory you had before the divorce. If you don't know where to begin, you might want to hire a financial adviser. Remember to think long-term when planning finances after divorce.

21. Have a Paper Trail

While most assets are divisible in divorce, there are some exceptions to the rule. Documents can help preserve what you believe to be separate property when it comes to divorce proceedings and should be collected beforehand. Too many times the necessary documents seem to disappear after a divorce starts, so to the highest degree possible, gather those documents before you start the divorce.

22. The Division of Property Can be Complex

Dividing assets and properties isn't always a simple numerical transaction. Negotiating the division of property is an art form all its own. It's a three-step process: characterize the asset, value it, divide it.

After the asset is identified as marital property, separate property or both, figuring out the value can be tricky. For instance, a bank account with cash in it is pretty easy to value — look at the balance. But a retirement account, a house or securities can have more complex issues.

23. Retirement Accounts Are Not Worth the Statement Balance

Just as it can be difficult to value assets, couples often struggle to determine the true value of their retirement accounts. One reason that retirement accounts pose problems is that deferred tax will have to be paid at some point. In light of this fact, retirement accounts might be worth even less than the balance minus tax.

If one of the parties will be liquidating a retirement account early, then the highest marginal tax rate and the early withdrawal penalty might need to be subtracted from the value of the account. The value of these assets is often drastically reduced as a result.

Even if the account is not going to be liquidated, the taxes which will be paid on the money at the time of retirement can be considered and a reduction of the overall value of the asset might [be], and very often is, appropriate.

24. “Division of Property” Depends on Where You Live

When a divorcing couple heads to court for a property dispute, state law is used to divide the property using one of two classifications: community property or equitable distribution. SC uses equitable distribution, which involves “fairly” divvying up assets and money accrued during marriage. Knowing the law of the land can help you avoid surprises during your divorce proceedings.

25. When in Doubt, Seek a Professional – Or it May Cost You

A simple mistake that drops your credit score 40 points can cost you thousands on your next mortgage. Making a mistake separating accounts, renaming beneficiaries or not setting up life insurance properly can cost you hundreds of thousands and impact you for years.

26. Make Sure You Actually Implement the Divorce

Despite their eagerness to be divorced, many people actually fail to complete all the steps needed to make their divorces legal. For best results, clients should make sure all their bases are covered and check up on spouses to ensure they have completed the necessary steps. You don't want to find out that your ex-spouse never refinanced the house five years ago like he was supposed to and [it's] now in foreclosure. By the time you find out about it, your credit will be destroyed for years.

27. Compromise Could Help You

You win some, you lose some, right? Unfortunately, divorcing spouses often refrain from compromising out of spite. While you might be tempted to fight every battle that comes your way, agreeing to compromises could save you a lot of headaches and money on legal fees when going through a divorce. As an added bonus, your decision to compromise could encourage your spouse to do the same.

28. Don't Forget About Health Insurance

Although federal law might dictate that you have health insurance access under your former spouse, Be cautious about relying on COBRA coverage long-term due to the high cost. Start doing legwork for available options that may be less expensive. Better yet, find a job for yourself that has benefits!

29. Belts Are Always Tightened During a Divorce

While individuals tend to factor the price of getting divorced into their budgets, they don't always consider other everyday expenses incurred during the process. Clients should carve out a little extra money to care for their personal needs during this difficult time. Factor in a gym membership, therapy co-payments, massages. You will want to be as healthy as you can to help your kids through the process, and you never know when you may have a bad day.

30. Act Proactively But Be Wary

Savvy divorce attorneys advise their clients to be cautious when filing for divorce. It's important to make sure you have the current statement for your spouse's brokerage account before announcing and filing for the divorce. After all, a deceitful spouse could very easily liquidate the account with no paper trail by neglecting to cash checks until later. The last thing you want is to find out your spouse set up a new account after the divorce settlement while leaving the current brokerage statement with a zero balance.

31. Avoid Underestimating Living Expenses

It should go without saying that divorcing individuals need to know what their spouses earn monthly, as well as where the money goes. When considering the cost of future living expenses, it's important to take into account the effect of inflation. Keep receipts so you have a good idea of what everything actually costs. Doing this will help you maintain quality of life after a divorce.

32. Don't Let Emotions Get in the Way of Selling or Handing Over Family Home

Whether you have an emotional attachment to your family home, or are just seeking vengeance against your former spouse, be sure you're thinking wisely about your decisions with regard to shared property. You don't want to discover later that you gave up other assets just to keep a home in which you can't afford to live.

33. Know What You Value

When contemplating divorce, it's important to consider what assets you value most and be prepared to let some things go. A major mistake in divorce, that everyone can get trapped into, is spending hundreds or thousands of dollars fighting for something that you don't even want. Take your time so you can make the most rational and intelligent decisions.

34. Dress Appropriately for Court

It might seem like a small matter, but buying nice clothes for court can boost one's confidence. You will feel better and likely fair better with the judge. Of course, clients should remember to keep it professional and avoid dressing in a manner that's flashy or overly pompous. Play it safe by keeping clothing neutral and accessories to a minimum.

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