

Dealing with Divorce



The decision to obtain a divorce is a painful decision, with emotional and financial implications that can last for years. When there are children involved, the decision becomes even more difficult. Before deciding to divorce, give counseling a try and see if your marriage can be saved. If, after making every attempt to save your marriage, you determine that divorce is unavoidable, there are steps you can take to lessen the turmoil of the divorce process.

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Provided by:

Before Initiating a Divorce

Educate yourself on the divorce, child custody and property/debt division laws in your state. The Internet is a good source for this information.

Create a current inventory of all financial assets (real estate, investments, household goods, vehicles, retirement plans, cash and other liquid assets), whether owned jointly or separately. Include all account numbers, as well as names and contact information of financial institutions, insurers and financial advisors, on your inventory.

Create a list of all current debt, including creditors and amounts. Pay off as many bills as possible.

Consider meeting with a financial advisor, such as your accountant or financial planner, to discuss the tax and financial implications of a divorce.

Create a file with copies of all relevant documents relating to your situation. A document checklist is available on page 5.

Verify the contents of any safety deposit boxes.

Be sure you have access to savings of your own that you can use if you suddenly need financial resources to pay household and personal expenses. Do not, however, empty bank accounts or hide money.

If you don't have credit in your own name, obtain and begin using your own credit card.

Select a qualified, experienced divorce lawyer. In interviewing attorneys, ask what the charges are and how they're calculated (a flat hourly rate charged in 15-minute increments or some other method). Also determine if an initial retainer is required and, if so, how much. You may also want to discuss with the attorney what you can do to keep costs to a reasonable amount. For example, you may be able to save money by doing some of the routine clerical costs associated with a divorce yourself.

While you and your spouse will each still need a divorce lawyer, **you may want to consider the services of a skilled mediator** to work with you and your spouse on reaching mutually agreeable solutions to financial and custody issues. The cost of a mediator will probably be less than paying the two opposing attorneys to argue through each area of disagreement. In addition, mediators encourage cooperation and compromise in reaching agreements, as opposed to the adversarial approach employed by attorneys. Mediation may leave you and your spouse with less emotional scarring and bitterness at the end of the process.

Decide when, where and how you will talk with your spouse about a decision to divorce. You and your spouse must then jointly decide when, where and how you will talk to your children about your decision to divorce.

Initiating a Divorce

The first step in initiating a divorce is to retain a divorce attorney.

Since divorce, child custody and property/debt division is governed by state law, you must rely on your attorney to guide you in matters such as these:

Canceling all joint credit cards.

Protecting your interests in joint accounts, such as joint checking, savings and investment accounts.

Revoking any power of attorney documents that name your spouse as your agent.

Who will move out of the marital home and any legal repercussions that might result.

Who will have initial custody of any children.

Any interim spousal or child support to be paid.

Any legal repercussions of dating before your divorce is final.

The impact of a divorce on any business interests you own.

How any employee benefits, such as health insurance and retirement plans, or military benefits, will be impacted by divorce.

Deciding who will take the dependent tax exemption for any children.

Working with your spouse and his/her attorney (or with a mediator), **reaching a final agreement** on division of assets, custody of children, child support and visitation rights for the non-custodial parent.

DO NOT agree to anything, either verbally or in writing, without your attorney's okay.

DO NOT agree to or sign a divorce settlement that does not release you from all joint financial obligations, such as credit cards, mortgages and auto loans. All joint debts should be either paid off or refinanced prior to your signing the final agreement.

In working with your attorney and his/her staff, make every call/meeting count, especially if you're being billed in increments of 15 minutes.

Don't spend a lot of time socializing or using your attorney as a counselor...that can quickly become expensive! Whenever possible, make your own copies of documents and take notes of all conversations.

Finally, request monthly itemized bills from your attorney.

Before finalizing a divorce, think through the timing and the tax impact of the divorce:

Selling the family home. A married couple can sell the family home and take up to \$500,000 in gains from the sale tax free, assuming the house has been their principal residence for two of the last five years. An unmarried person, however, qualifies for only \$250,000 in tax-free gains. If the family home is going to be sold, it may be best to do so prior to finalizing a divorce.

Transferring retirement assets. A transfer of retirement assets from one former spouse to the other is not taxable if made pursuant to a qualified domestic relations order (QDRO), a judicial order that splits a retirement or pension plan interests in a divorce.

Child support payments. Child support payments are tax neutral. The recipient is not taxed on child support payments and the payor cannot deduct them for income tax purposes.

Alimony payments. Alimony payments required under the terms of a divorce or separate maintenance decree are eligible for a tax deduction by the person who pays the alimony. The recipient of alimony payments must report them as income for tax purposes.

December 31. Your marital status on December 31 determines your tax filing status for that year. There may be filing advantages to delaying a divorce to the next year in order to be able to claim joint filing status. Consult with your accountant.

Dependent exemption. Generally speaking, the custodial parent takes the dependent exemption for children. It may, however, be advantageous to trade the exemption to a higher-earning non-custodial parent in return for something else. If parents share custody, they can alternate who claims the dependent exemption from year to year. Again, consult with your accountant.

Legal fees. The legal fees paid for a divorce are considered a personal expense and, as such, are generally not tax deductible.

Name change. A woman should not file taxes using her maiden name until after she has made the name change with the Social Security Administration. To do otherwise risks records not matching up correctly.

When the Divorce Is Final

Verify that all joint accounts are closed and the proceeds distributed in accordance with your property settlement. Also confirm that all joint credit accounts are closed.

Change names on documents and accounts, as appropriate, to reflect the property division in your divorce settlement. This includes bank accounts, real estate deeds, vehicle titles, investment accounts and any other assets that were held jointly.

If you have changed your name as part of the divorce, you need to notify a variety of organizations and government entities of the change. A name and address change checklist appears on page 6.

Contact your insurance agent to change beneficiary designations on life insurance policies and make any needed changes to homeowners and automobile insurance.

You may have lost important insurance protection as a result of the divorce. Make an appointment with your financial advisor to review your insurance coverage, including life, health, disability, homeowners and automobile insurance.

Contact your employee benefits department to make any needed changes in your employee benefit program.

With divorce, your income tax filing status changes from married to single or to head of household. This may require that you change the amount withheld from your pay by your employer.

Review all wills and estate planning documents established during your marriage and make appropriate changes.

If you are paying or receiving child support, keep good records of payments made or received.

Document Checklist

Document	Location
<i>Personal:</i>	
Birth Certificate	
Marriage License	
Pre- or Post-Nuptial Agreement	
Will	
Trust(s)	
Living Will(s)/Power(s) of Attorney	
Mortgage Papers	
Automobile Titles/Papers	
Income Tax Returns	
Gift Tax Returns	
Insurance Policies	
Employee Benefit Documents	
Passport	
Military Records	
Medical Records	
Citizenship Papers	
Warranties	
Current Bills	
Funeral/Burial Documents	
Other: _____	
<i>Business Ownership:</i>	
Partnership/Incorporation Documents	
Buy-Sell Agreement	
Section 303 Stock Redemption Agreement	
Business Valuation/Appraisal	
Business Tax Returns	
Other: _____	

Name/ Address Change Checklist

Government:

- Social Security Administration (www.ssa.gov)
- Post Office (change online at www.usps.com)
- Driver's License
- Voter Registration
- Vehicle Registration
- Passport
- IRS (use IRS Form 8822)
- Department of Veterans Affairs (forms available online at www.va.gov)
- Child Support Payments

Employment:

- Current Employers
- Previous Employers (as needed for future benefits, such as pensions)
- Business Associates

Financial Institutions:

- Banks (checking/savings accounts, CDs, safety deposit box)
- Lenders (auto, mortgage, student loan)
- Credit Card Companies
- Insurance Companies (life, health, auto, home, disability)
- Investment/Brokerage Accounts

Utilities/Services:

- Water and Sewer
- Electric
- Gas
- Telephone/Cell Phone
- Garbage
- Cable or Satellite
- Internet

Service Providers:

- Attorney
- Accountant
- Insurance Agent
- Financial Advisor
- Doctor
- Dentist
- Veterinarian
- Daycare/Babysitters
- Cleaning Service
- Yard Care Service

Subscriptions/Memberships:

- Magazines
- Newspapers
- Book/Music/Movie Clubs
- Churches
- Civic/Community Organizations
- Professional Licensing/Certification Boards
- Health, Social and Country Clubs

Legal:

- Wills
- Trusts
- Property Titles

Education:

- Your Schools
- Children's Schools

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