Invictus
Wealth Management
Wells Fargo Advisors Financial Network

DIVORCE TIPS

MANAGING RETIREMENT ACCOUNTS

If a divorce is in your future, you have a lot on your mind — the household, mixed emotions, perhaps children. But now is not the time to overlook your finances. Each case is different, and there's no pat answer. To help reduce the likelihood that a divorce will disrupt your tax and investment strategies, you need to understand a few fundamentals.

The rules governing divorce are complicated and also vary by state. The following is intended to provide only an overview of the issues involved. Always consult your attorney and tax advisor about your specific situation.

MANAGING RETIREMENT ACCOUNTS

If you contribute to a retirement plan, such as a 401(k) or an IRA, you're probably planning to use those funds to finance a significant portion of the expenses you'll incur in retirement. In a divorce, you need to take measures to help protect these assets.

If you or your spouse have funds in an employer-sponsored retirement plan, it's usually vital to obtain a qualified domestic relations order (QDRO, pronounced "quad row"). This is a court order, judgment, or decree related to child support, alimony, or property rights instructing a retirement plan administrator on how to pay benefits to an ex-spouse or dependent of the participant.

A QDRO can provide protection above and beyond what a divorce decree offers. Don't assume you're protected just because your divorce decree indicates you have a right to your ex-spouse's pension funds. To help ensure your rights are protected, consult with your attorney about obtaining a QDRO.

Beth Zucker, CFP®, CDFA®
Partner

As a Certified Divorce Financial Analyst (CDFA®), I provide financial guidance to individuals facing divorce, and their attorney, through all stages of the divorce process. In addition to my investment planning background and CFP® designation, I've completed an intensive training program to become skilled in analyzing and providing knowledge regarding the financial issues of divorce.

> *Don't have regrets. You can learn something from every experience.*
> *— Ellen Degenerese*

A QDRO establishes a spouse's right to receive a designated portion of an ex-spouse's retirement plan account balance or benefit payments. The spouse receiving the money accepts responsibility for paying the taxes. Any money going from your pension plan to a non-spouse dependent is considered a distribution to you — which means you would be responsible for paying the taxes.

If you plan to use a QDRO to roll over funds from an ex-spouse's retirement plan into your IRA, keep in mind that an immediate distribution may not be possible. When you receive the money depends on the employer's plan document. If an immediate distribution is possible, take care regarding how the rollover is handled. The most efficient method is to have the money go directly from the retirement plan into your IRA.

On the other hand, if you have a check written to you, the plan will be required to withhold 20% for the IRS. So instead of receiving $100,000, for example, you'll get a check for only $80,000. You'll then have 60 days to deposit the check into your IRA to avoid incurring a taxable distribution. If you replace the amount withheld ($20,000 in our example) with other funds when you make your IRA deposit, you may get a refund from the IRS for that amount when you file your tax return. If you do not replace the withheld amount, it will be considered a taxable distribution to you. Distributions made from an employer retirement plan due to a QDRO would avoid the 10% IRS penalty if you are under the age of 59½. Unfortunately, if you wait until after the assets are rolled to an IRA and then take an early withdrawal (pre 59½), the 10% penalty will apply unless you are eligible for a penalty exception for IRAs.

TAKE CARE WHEN DEALING WITH IRA TRANSFERS.

If your divorce decree calls for you to transfer funds from your IRA to your ex-spouse's IRA, you can do so without incurring taxes if your divorce decree includes appropriate language addressing the transfer, known as Transfers Incident to Divorce (TID). After the transfer, your ex-spouse will owe taxes when taking withdrawals and may be subject to the 10% early withdrawal penalty if under age 59½. (Qualified withdrawals from a Roth IRA are tax-free.) If your divorce decree does not include the appropriate language and you withdraw money from your IRA to pay your ex-spouse, you would owe taxes and potentially a 10% IRS penalty if you're younger than 59½. Consult your attorney to make certain you are protected.

Invictus Wealth Management | 2003 South Easton Road, Suite 208 | Doylestown, PA 18901
(267) 507-9771 | beth@invictuswm.com | www.invictuswealthmanagement.com