

## **Financial Planning After a Divorce: What Women Should Know**

*Presented by 4Rivers Wealth Management*

The truth is, after a divorce, women tend to be hit harder financially than men. And, given that women experienced the highest rates of job losses in 2020, divorce in the current environment is even more likely to disrupt their financial stability. For women who find themselves experiencing the increasingly common “gray” or late-life divorce, the financial consequences may be even more acute. The decision to end a marriage after age 50 could mean unraveling assets and finances that have been shared for decades.

If you're facing financial challenges or decisions after divorce, how can you better understand and take control of your financial future? To start, consider seeking guidance on some of the planning issues discussed below.

### **Splitting Marital Assets**

This topic can become highly complicated. Assets acquired during the marriage are split according to your state's law. Generally speaking, most states follow equitable distribution rules that will consider all marital assets, and a court will determine their distribution between you and your former spouse. There are nine states that have community property laws, which means each spouse owns 50 percent of the assets acquired during their marriage (with certain exceptions). When it comes to debts, in community property states the same approach holds. Debts acquired during the marriage are generally attributable to both spouses. In noncommunity property states, however, debts usually stay with the spouse who incurred the debt, unless the other spouse cosigned or otherwise guaranteed it.

**Retirement savings.** The contributions you or your former spouse make to employer-sponsored retirement plans and IRAs during the marriage are generally considered marital property, with some exceptions. Contributions made outside of the marriage, for example, can be considered separate property. Pay particular attention to any qualified plans you may have, such as pensions or 401(k)s, as these should be divided according to a qualified domestic relations order (QDRO).

A QDRO allows for a tax- and penalty-free transfer to a nonowner ex-spouse. Neither the original owner nor the divorcing nonowner should be taxed or penalized if the nonowner rolls the assets directly into a qualified plan or an IRA. Keep in mind, if the nonowner spouse receiving the distribution uses the funds in any other fashion, a tax will be imposed on that distribution—but only to that spouse.

We can discuss the QDRO with you in greater detail, as options can vary from plan to plan. Pensions, for example, will generally not pay a lump sum but will make payments to the ex-spouse the same way they would be made to the employee-owner. The sooner a QDRO is presented to a plan administrator, the clearer the understanding you'll have about your options.

Creditor protection is another consideration. Keep in mind that 401(k) plans are covered by the Employee Retirement Income Security Act (ERISA), so they have creditor protection. If the 401(k) is rolled into an IRA, it will continue to be protected from bankruptcy creditors, but it will only receive general creditor protection as provided by state law.

Dividing an IRA is different, though. ERISA does not cover IRAs, and the division of an IRA does not require a QDRO. For federal tax purposes, if the division follows a court-issued divorce decree and is made as a trustee-to-trustee transfer as opposed to an outright distribution, an IRA owner can avoid tax and penalties. Once the asset is transferred, each spouse becomes solely responsible for tax and penalties of any future distributions.

**Family home.** If you or your ex-spouse want to hold on to the home, the marital estate can be equalized from other assets, if necessary. Current circumstances related to the pandemic may complicate the equalization, though. Because inventories remain low, demand exceeds the supply of homes for sale. In this market, we're seeing homes sold immediately after the For Sale sign is posted. Plus, the rise in home values across the U.S. increases the likelihood that the equalization may involve the exchange of additional liquid assets to keep the house.

If you're interested in keeping the family home, we can help you factor ongoing mortgage payments, property taxes, and maintenance expenses into your current cash flow and long-term financial plan to see whether it's feasible. If not, there are other alternatives we can look at, including refinancing or downsizing.

**Life insurance.** The accumulated cash value of a life insurance policy is subject to division—much like any other marital asset. If it's necessary to divide the cash value, transferring a policy's ownership can be included as part of your divorce decree. If you are transferring a policy, be sure to update beneficiary designations before doing so.

### **Considering Income and Cash Flow**

If one person was the breadwinner, income may need to be equalized in the division of assets. State family laws determine any alimony amounts. Whether you're paying or receiving alimony payments, we can help factor the effect into your monthly or annual cash flow plan.

**Alimony.** Under the Tax Cuts and Jobs Act of 2017, alimony payments are no longer deductible by the payer, and, consequently, the payee can't include the money as taxable income. This change applies to divorce settlements made after December 31, 2018. It can also apply to existing agreements that are modified after that date, but only if the modification explicitly states that the new rule applies.

**Social security.** You may be able to collect social security income on your ex-spouse's working record (even if your ex-spouse remarries) as long as you have not remarried, your marriage lasted more than 10 years, and you have been divorced for more than two years. To qualify, you and your former spouse must be 62 or older.

If you're caring for a child younger than 16 and you're not remarried, children's social security benefits may be available to you, regardless of your age.

**Child support.** Based on their sensitive nature, child support issues, including financial support and physical care, are usually resolved in court. The divorce decree should specify the amounts, if any, of child support paid from one spouse to the other, as well as who will be entitled to claim the children as dependents for tax purposes. Although the pandemic's impact on women has been largely disproportionate, one positive outgrowth is a growing consensus that childcare is, in fact, infrastructure. This focus may ease the childcare burden if you are the custodial parent.

### **Estate Planning**

Following your divorce, it's important to update your estate plan to accommodate any adjustments. Although most state laws nullify a beneficiary or fiduciary designation of an ex-spouse, you may need to amend or get new trusts, wills, and powers of attorney, as well as change beneficiary designations. If you named your former spouse as your trusted person or beneficiary in documents or on accounts, these designations should be changed as soon as possible. And, if you retain custody—even partial custody—of a minor, your estate planning documents should address the issue of guardianship for your child and the child's estate.

### **Taking the Long-Term View**

If you feel financially unprepared for the breakup of your marriage, you're not alone. Only about one-third of divorcees have a comprehensive plan in place, according to a [2021 BMO Real Financial Progress Index survey](#). That's one reason it's critical to get the guidance you need to help you navigate the financial challenges of a divorce.

### **Need Additional Information?**

If you have any questions about the information shared in this article, please contact me. These are complex issues, and I'm happy to talk through the available options and help guide you to appropriate decisions regarding estate planning, emergency savings, health care plans, and any other topics.

*This material has been provided for general informational purposes only and does not constitute either tax or legal advice. Although we go to great lengths to make sure our information is accurate and useful, we recommend you consult a tax preparer, professional tax advisor, or lawyer.*



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