

Navigating Divorce



TruNorth
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www.TruNorthInvest.com 801-889-1599

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“Remember how far you’ve come, not just how far you have to go. You are not where you want to be, but neither are you where you used to be.”

-Rick Warren

If you are going through a divorce it can seem like a relentless storm or unending valley and you may not feel like you will ever experience a sunny day or a mountaintop again.

The decisions, the process, and the impacts are almost never easy. Your financial situation can be one of the most important elements to understand as you navigate a divorce. Like in most life events, in divorce knowledge is power. The more you know and the better you understand your options, the more likely you are to make sound choices, ones that will steady you and guide you safely to your next destination.

If you are in the midst of the process it can feel like there are multiple complex issues all coming at you at once, ranging from extremely personal to very practical. The better you understand the process the more confident you will be. There are individual and legal differences in every divorce. Hiring a good family law attorney who understands your situation and will advocate for you can help you navigate the legal landscape.

Going through a divorce is rarely simple. However, with this guide you can begin to understand the **financial** considerations and decisions you will have to make along the way. **We can help you make a plan, call us at 801-889-1599.**



This Guide Will Cover:

Taking Control

Making it Work—Who
Gets What?

The Long View

Kids, Divorce and
Money

Who Do You Need on
Your Team?

When It Is All Over

TAKING CONTROL

Understanding the process of divorce can help reduce stress and help you protect your interests. Part of the process involves getting a view of where you are financially now, where you need to be after the divorce, and beginning to build your separate financial life. Regardless of what your current financial standing is, your post-divorce life should start with identifying all of your personal assets and searching for any potentially hidden assets. These details include everything from loans in your name to investments held in both spouses' names. From there, you can start the process of organizing your financial life.

One often overlooked aspect of divorce is the decrease in income. According to *Investopedia*, on average, men typically see a 25% decrease in income following a divorce, while women can experience a decrease of over 40%. With this in mind, it's no surprise that women often experience greater financial hardships following a divorce than men. Additionally, those who go through a divorce after age 50, are nearly 9 times as likely to have financial challenges at age 63 than their continuously married peers according to *AARP*.

We can help with the right strategies and guidance, to help control the setbacks that many people experience during a divorce.

“The pen that writes your life story, must be held in your own hand.”

-Irene Kasserole

Separate your lives.

While it may be painful to think of being separate and outside of your previous relationship, starting the separation process can protect you and start you on the path to financial independence.

1. Check and protect your credit
2. Establish or redefine credit in your own name
3. Open your own bank account
4. Change beneficiaries on key documents held in your name
5. Create new private email and social media accounts
6. Set up your own mailing address
7. Get your own cell phone plan



MAKING IT WORK

Who Gets What?

The divorce process involves a financial separation as well as an emotional one. Both money and physical assets will have to be separated. You should discuss the issue of marital property carefully with your attorney, because it can become very complex depending on how non-marital assets were combined and used during the marriage. What's more, appreciation of non-marital property during your marriage may be considered marital property in some jurisdictions.

Most states will rely on the concept of **equitable distribution** in dividing marital property. The goal is achieving a division that is fair based on a range of considerations, including the contribution of each spouse to acquiring and maintaining the marital property, the length of the marriage, needs related to child custody and the financial needs, circumstances and future prospects of each spouse. In a contentious divorce, it is important to have a knowledgeable divorce lawyer to ensure that all relevant factors are considered.

Marital property includes virtually all property that you and your spouse acquired during the marriage: real estate, investments, bank accounts, art collections, cars, boats and so on. Almost anything owned by you and your spouse will be included except property that was:

- Given to one of you or that you inherited
- Acquired before marriage
- Acquired using property that was a gift, inherited or already owned before the marriage
- Excluded by a prenuptial or other agreement

Begin to unwind your finances by capturing what assets you own personally and jointly and begin to separate your monetary assets. Remember, assets that you had before your marriage remain yours after a divorce. Here are some key financial considerations to address:

Bank Accounts: Separate any joint accounts you share. If you don't have one, you'll need to open up a new bank account in your name only.

Credit Cards/Loans: List every credit card and loan you and your spouse have. From there, identify what designates you as a co-owner of the debt, or simply as an authorized user, and take steps to remove yourself from any joint relationship.

Your Home: Deciding whether to keep or sell the house you've lived in and may have raised children in can be one of the most complex decisions you face. Few questions present such a tightly woven blend of emotional and financial issues. It can become very complex depending on how non-marital assets were combined and used during the marriage.

Keep in mind that decisions involving a house (or co-op or condo) should not focus solely on value. You should also consider liquidity, cash flow and the cost of maintaining the asset once you own it. That can be a significant financial burden that may preclude other opportunities or needs—like a sound retirement plan. Alimony and child support may help, but they are likely to be time-limited. The best answer for your long-term interests is not an easy question to answer and the implications and responsibilities of taking ownership should be discussed with a qualified advisor.

“What matters most is how well you walk through the fire.”

-Charles Bukowski



If you or your spouse owns a business: or if you started one together, it may be your marriage's most valuable asset. If it is a primary source of income for you and your spouse, it may sell or be liquidated. Valuing your business in these circumstances is complex and likely to involve appraisals, income projections and the input of your respective accountants. Determining the most appropriate course of action will, in all likelihood, require extensive negotiation—but in the case of a successful business, the effort can be well worth it.

In an uncontested divorce, you may be able to divide your assets on your own, and then have that agreement memorialized by your attorneys. If future ownership is in dispute, however, a court may have to decide. How the judge will make that decision will depend largely on guidelines set out in state law. While specifics vary significantly from state to state, you should be aware of some key concepts, including marital and non-marital property and equitable distribution. Another system that exists for dividing marital property is the “**community property**” approach, which is used in nine states. (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin) In these states, property is divided evenly between the spouses, regardless of how it came into the marriage or the projected financial needs of either spouse.

Investments/Retirement Accounts: Retirement and Investment accounts often hold a significant portion of people's assets, especially if they've been accruing for years. When divorcing, it's critical to negotiate how you will split these accounts, the details will largely be dictated by the state you live in and the types of accounts. From defined-benefit plans to pensions, separating retirement savings in a fair manner can be complex. As you move to divide retirement accounts, here are some details to keep in mind:

- **Taxes:** How will taxes affect your retirement accounts either now or in the future? Do you need to roll money over to something like an IRA?
- **Preuptial Agreement:** Do you have a prenup in place that defines how you must handle your retirement assets?
- **Financial Stability:** If your retirement account is being split or transferred, how will this change affect you financially? If you're receiving these funds in a settlement, how well do they support your retirement and do you have gaps that need to be filled?
- **Current Living Needs:** Do you have enough money to cover daily living expenses? If not, will you need to access money from a retirement account to help you?
- **Alimony for Retirement Investments:** Today's tax laws don't recognize alimony as earned income, so you can no longer use alimony payments to fund retirement accounts like IRAs and Roths. This change can effect your financial strategies for retirement.

“One small crack does not mean you are broken; it means that you were put to the test and you didn't fall apart.”

-Linda Poindexter

THE LONG VIEW

While you were married, it may have been easier to focus on retirement plans or college costs. In some families there is a division of responsibilities, with one partner taking on one task with the other taking on something else. These may have felt like shared goals, and you may have been on a more comfortable financial footing. Divorce can complicate the future, but with good advice and sound planning, you can make things happen—and you can do it your way. As a single person, you can arrange to have your money managed in the way that makes the most sense for you—for your objectives, comfort level with risk and time horizon—because it's your money. You can also take advantage of plans that offer tax deferred, or even tax free, investment earnings potential as you pursue retirement goals for yourself and education goals for your children. While you now have more responsibility, you have also gained more flexibility and control—advantages that can serve you well as you focus on the long view.

Things you need to decide about:

- Divide retirement assets
 - IRA's, 401k's, 403b's 457's, pensions, FSA, HAS
 - Just because you reached an agreement doesn't mean you are done. **There usually is additional paperwork—you must complete it to cross the finish line.**
- Social Security
- Understand your retirement
 - Know where you are, where you want to be and a plan to get you there.
- Establish your plan
 - Understand it
 - Add to it
 - Be in charge of your investments within it
- Kids- if you have them-who is going to fund their education and how?
- Insurance and Long Term Care for you
- Tax Liabilities

SOCIAL SECURITY FOR DIVORCEES

Claiming Ex-Spousal Social Security Benefits for Income

Divorcees are often able to receive Social Security benefits from a former spouse in certain conditions. You must meet the following criteria:

- Have been married for at least 10 years
- Be currently unmarried
- Be at least 62 years old
- Have a former spouse who is able to claim Social Security or disability benefits
- Have personal Social Security benefits available to you that are less than what you'd receive from your former spouse.

These benefits apply even if your former spouse remarried. Additional conditions can affect these benefits, more information can be found on SSA.gov. To ensure you receive the benefits you are entitled to consult with your professional advisors on your specific financial situation.

"You never know how strong you are until being strong is the only choice you have."

-Bob Marley

“It always gets worse before it can get better. But it will get better. Like everything else, and like our past struggles, at some point we win, but before that win, there’s always that loss that spurs us on.”

-Dolores Huerta

PROTECT YOURSELF WITH INSURANCE

Your insurance policies also need to be reviewed during the divorce process. From removing your spouse from accounts to revising your policies, pay close attention to insurance during the divorce process. Connect with your insurance professional to make sure that all your policies have been updated.

Several factors will affect the cost and availability of life insurance, including age, health, and the type and amount of insurance purchased. Life insurance policies have expenses, including mortality and other charges. If a policy is surrendered prematurely, the policyholder may also pay surrender charges and have income tax implications. You should consider determining whether you are insurable before implementing a strategy involving life insurance. Any guarantees associated with a policy are dependent on the ability of the issuing insurance company to continue making claim payments. Your insurance professional will be able to answer these questions.



UPDATE YOUR BENEFICIARIES

If your former spouse is a beneficiary on your insurance accounts, a finalized divorce is a good time to update these details. Sometimes, a court may order you to keep your spouse listed as a beneficiary; in these cases, you must follow court orders. But, if you have no limitations—and you have children—then updating your beneficiary information to remove your spouse and add your kids can be a helpful strategy.

Here are some details to keep in mind:

Designating your estate as the life insurance beneficiary could cause your heirs to go through probate, which is an expensive process. Designating children who are minors is complicated, and your best option could be to set up a trust in their name as the beneficiary instead.

MANAGING TAX LIABILITIES

Taxes will almost certainly play a role in your finances during the divorce process. From splitting investment accounts to managing alimony, paying attention to how taxes may affect you will help maximize your settlement outcomes. The items on this list are topics to discuss with your tax professional for the most up-to-date information for your unique situation.

Here are key areas to include in your strategizing.

Filing Joint Tax Returns

If you filed taxes jointly, then it's important to know that the IRS considers you still married if you haven't finalized your divorce by December 31. As a result, separated couples—even if you've already filed for divorce—may be required to file joint returns in that tax year.

If you never filed a joint return and have a dependent, you may be able to file as "Head of Household," depending on whether the IRS recognizes you as "unmarried." Your tax professional can help you identify the steps you need to take.

Paying and Receiving Alimony

Due to a tax law change in 2019, alimony paid to an ex-spouse is no longer tax-deductible, and those who receive alimony will no longer pay taxes on it. Legal fees paid to an attorney due to alimony arrangements may also not be tax-deductible anymore. If any of these items were listed in a pre- and/or post-nuptial agreement, they may be nullified as a result of these tax changes.

Paying Capital Gains Taxes

Property that transfers during a divorce isn't taxable during the settlement. However, capital gains taxes may apply later if you sell the property. Since the tax basis shifts during the divorce settlement, you may need to pay tax on the value it accrued before and after the divorce.

“Every flower must grow through dirt.”

-Laurie Sennott

Addressing Child Support

If you have children when you divorce, then child support is likely part of your settlement. For the person paying child support, it's important to note that these payments aren't tax-deductible, nor is the received income. Also, no one will pay taxes on child support money. These standards apply to divorces finalized after Dec. 31, 2018.

Claiming the Child Tax Credit

If you have children who live with you for the majority of the year, then you may be able to claim the Child Tax Credit, worth a \$2,000 deduction per child. For other dependents over 16 years old, you can claim up to \$500 per child. Parents who don't have custody can only claim this credit if the other parent signs a waiver allowing them to do so.

KIDS, DIVORCE, AND MONEY

Divorce almost always involves money, and often it involves children, what if it involves both? Divorce can affect children in many ways, reflecting differences in age, personality and coping skills. As a parent, you may try to protect, comfort, manage and control, depending on the circumstances or issues.

Kids are smart and spend time with their parents, they see and hear things that may not be the complete picture you want them to hear and see. Talk to them about your divorce and money in an age appropriate way.

The American Academy of Child and Adolescent Psychiatry has these suggestions for talking about your divorce with your children:

- Do not keep it a secret or wait until the last minute.
- Tell your child/children together with your spouse.
- Keep things simple and straightforward.
- Tell them the divorce is not their fault.
- Admit that this will be sad and upsetting for everyone.
- Reassure your child/ children that you both still love them and will always be their parents.
- Do not discuss each other's faults or problems with the child.

Source: American Academy of Child and Adolescent Psychiatry

“It’s not that children shouldn’t be involved or consulted, but passing the buck because you don’t want to do the hard work of taking a stand in your own life or as a parent is very destructive to kids.”

-Joline Godfrey

YOUR TEAM

“None of us is as smart as all of us.”

-Ken Blanchard

Going through a divorce can feel like a lonely process, which is all the more reason not to go it alone. Assembling a strong, experienced team of confidential professional and personal advisors—your personal board of directors—can provide critical guidance and support, helping you make more informed decisions while you approach the future with greater confidence.

Consider building a team that includes:

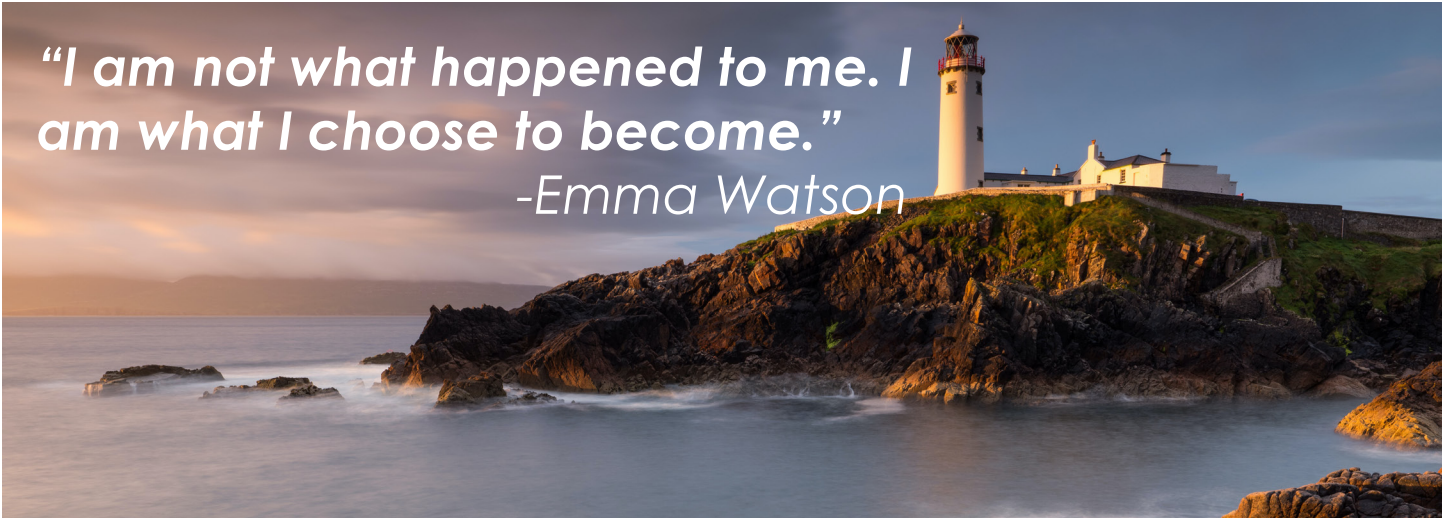
- **Divorce lawyer:** Your lawyer takes on the responsibility of safeguarding your best interests and can deal objectively, unemotionally and forcefully with the many complex issues that typically arise. Plus, an experienced lawyer can offer you valuable perspective on the tough decisions you will have to make.
- **Accounting Firm:** Your tax filing status changes significantly as the result of a divorce. An accountant can advise you on matters such as income and capital gains taxes—as well as any residual tax issues that may linger from your marriage.
- **Financial Advisor:** You and your spouse may have worked with a financial advisor to help plan and manage assets during your marriage. Now you need a financial advisor who can focus solely on you and your needs and plans—on a completely confidential basis. Your financial advisor can help you understand the assets you own and your liquidity and cash flow issues, as well as strategies for reaching long term objectives such as educating a child or planning for retirement.
- **Personal Counseling:** Divorce is a legal, financial and emotional process. You may have encountered issues that you are less than comfortable discussing with a financial or legal advisor. That's where a therapist, clergy person or other personal counselor can become invaluable, helping you deal with the complex, private and very human side of divorce.

WHEN IT IS ALL OVER

When your divorce is final there are still decisions that need to be made. Many times, when you were married you named your spouse as primary inheritor in your will, as the executor of your estate and gave them power of attorney. You may have named your spouse beneficiary of your life insurance policies, pensions, 401k plans, individual retirement accounts or other retirement accounts. Those designations don't change just because you divorced. If you no longer want your former spouse to be in that favored position, you have to take action. **Check with your attorney see if you need to wait to take action on some of these items until your divorce is finalized** because many states give spouses priority in these areas.

Consider making these changes as soon as you can:

- Draft a new will and or trust to direct your estate where you want it to go.
- Name new beneficiaries for your retirement accounts. The person receiving these assets in the event of your death is not governed by your will.
- Update the medical directives in your living will so your former spouse will not be responsible for medical decisions should you become incapacitated.
- For similar reasons, update your financial power of attorney.
- Name new beneficiaries on your life insurance policies, making sure you comply with any conditions that may be included in your divorce agreement.



"I am not what happened to me. I am what I choose to become."

-Emma Watson

Parting Thoughts

Going through a divorce is rarely a simple or inexpensive process. We want to help you protect yourself and achieve your financial goals, both during the divorce and into the future. If you have any financial questions, we can help you navigate the complicated landscape and collaborate with your legal and tax professionals.

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TheTeam@TruNorthInvest.com



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