Prepare and plan for divorce

By Trey Yates

If you are considering divorce, or have decided to leave a failed relationship, you are not alone. In the United States, more than two million marriages end in divorce each year.

Statistically, many women who divorce end up shortchanged financially. So, I advise those contemplating divorce to invest time into preparing and planning for their divorce before filing or even announcing their intentions.

Information is power, and the more you know, the better informed you will be in making decisions during the divorce process and your plans for the future. Each situation is unique, so be sure to assemble a team of trusted and skilled advisors and supporters to assist you along the way. This should include an experienced, board certified family law attorney experienced in divorce, and financial advisor experienced in divorce finances, and perhaps, a licensed therapist.

Here are a number of actions to take as you prepare for your divorce.

Learn as much as you can about your marital assets and finances. Assemble copies of statements on all bank accounts, 401(k)s, pension plans, stock portfolios, bonds, CDs, etc. as well as all credit cards, loans, debts, etc. Your attorney will need your income tax statements for the last three years. You will also need details on all automobiles and large ticket items owned by yourself and your spouse. Make a list of all assets in yours and your spouse's name. Pull credit reports on yourself and your spouse.

If you own real estate, gather together any documents or information you have on purchasing the property, as well as its location, mortgage statements, taxes, insurance and current market value. Make a copy of your will and any applicable trust documents. Also make copies of automobile, home and life insurance policies and statements. In addition, it’s a good idea to gather household expense statements – utilities (electric, gas, water, sewer and garbage pickup), security system, automobile payments, cable TV, Internet, insurance, lawn service, etc.

You may want to remove your valuable jewelry or keepsakes from the house and store them in a safe place. Take photos of household valuables and special collections and also store them safely away.

Depending on your situation, you may want to get a cell phone in your name and set up a new email account for correspondence with your divorce team.

It’s also a good idea to prepare emotionally and mentally for this process. Divorce is rarely easy, so now might be a good time to establish a relationship with a licensed therapist who can provide understanding and support.

To relieve stress and ensure good health, you may want to start a work out plan or go to the gym. If children are involved, at the appropriate time, tell them and get them some counseling to help with the transition. Before separating, be sure you have medical insurance.

If domestic violence has played a role in your marriage, take steps to protect yourself and your children. Take photos of any injuries and gather any medical records related to the incidents. Inform your attorney if there is any threat of further abuse. If the danger is immediate, take the children and go to a safe location before contacting your attorney and/or the police.

If you have depended on your spouse for financial security, you would be wise to consider how you might generate income going forward. For the time being, consider withdrawing funds from joint bank accounts and open your own bank account in just your name. You will be responsible for these funds, but at least you'll have some cash at your disposal. Also consider taking out a credit card in just your name for emergency purposes.

Above all, don't get discouraged. Get the information and assistance you need from your divorce team to make informed decisions, gather the necessary documents and make plans for "your next best life" beyond divorce. You deserve to be happy!

Divorcing couples may qualify for a tax break on home sales gain

By Patricia Barrett

In many divorces, couples end up selling the family home -- before, during or shortly after the divorce -- in an effort to practically adjust to post-divorce lifestyles and expenses. In order to avoid paying federal income tax on the gain on a home sale, divorcing couples should explore their options -- preferably before the divorce is final -- to use the federal income tax exclusion.

Depending on very specific criteria and the unique situation of each divorcing couple, this option could potentially offer a significant financial advantage -- if the timing works in their favor and they agree to some advanced planning to accommodate the qualifications.

The sales gain exclusion rules apply strictly to the sale of a couple's primary residence, as opposed to the sale of a vacation home or other real estate. The exclusion (no federal income tax is owed) for an individual, applies to the gain on a home sale up to $250,000. A married couple, filing jointly, can exclude up to $500,000 of gain on a home sale. However, to qualify for the exclusion, a seller must have owned and occupied the property as a principal residence for at least two years during the same five-year period. To claim the $500,00 exclusion for a couple, at least one spouse must pass the ownership test, and both spouses must pass the use test. Here are two examples:

Home sale occurs before divorce:

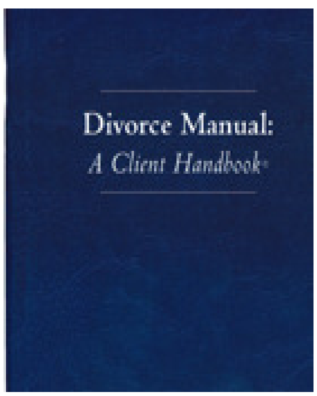
If a soon-to-be divorced couple meets the qualification rules above, sells their primary residence, and are still legally married at the end of the year of sale (because their divorce is still not yet final), they can claim the $500,000 exclusion. They can claim the full amount, if they file a joint return, or if they file separate returns, using married filing separate status, each spouse can exclude up to $250,000 of his or her share of the gain. Again, to qualify here, each spouse must have owned his or her share of the home for at least two years during the five-year period prior to the sale date, and used the home as a principal residence for at least two years during that period.

Home sale occurs in year divorce is final or shortly thereafter:

When a couple is divorced in the same year their home is sold, they are divorced for that entire year according to the IRS. Therefore, they cannot file income tax returns jointly. However, if both spouses meet the required ownership and residency requirements as stated above, each spouse can exclude $250,000 of their respective shares of the home sales gain when they file separately.

If one spouse ends up with sole ownership of the home after divorce, then sells it, he or she can only exclude $250,000 of the sales gain as an individual. However, if the single spouse remarries, and lives in the home with a new spouse for at least two years before selling it, the couple may qualify for the $500,000 sales gain exclusion, if they file their income taxes jointly.

If your situation falls outside of the above examples, I recommend consulting a Certified Divorce Financial Analyst such as myself for a closer examination of the potential for making this exclusion work for you.



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Divorce Manual

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