

Getting Going

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How to Deal Financially With Divorce, Treating It as a Business Transaction

By JONATHAN CLEMENTS

Nobody wins in a divorce. But lots of folks try.

Make no mistake, divorce is financially devastating. Your standard of living almost certainly will take a hit. Yet couples invariably make matters worse by tossing away money on costly bickering.

That doesn't mean you should meekly accept whatever your estranged spouse demands. But if you are going to make it through your divorce in one piece, both emotionally and financially, it helps to treat the settlement like a business transaction.

On that score, here are some thoughts:



Peter LacaLamita

Pick Your Fights

"You should decide what you think is appropriate and fair going into it," says Deena Katz, a financial planner in Coral Gables, Fla. "The problem is, people rush off to attorneys and the attorneys tell them what to do."

Think carefully about how you will manage your financial affairs after the divorce. For instance, do you really want the house? Experts say that women, in particular, often fight to keep the home, even though it may not make financial sense.

"They're emotionally attached to the house," says Carol Ann Wilson, founder of the Institute for Certified Divorce Planners in Boulder, Colo. "They've decorated it. They've raised their children there. They've entertained there. But they really need to see if they can afford to keep it."

Similarly, do you really want, say, half of your spouse's 401(k) plan? You may find that, rather than getting stuck with a big stash of retirement money, what you need is cold cash, which you can then use to rebuild your life.

"Ask yourself: 'Would I rather have more cash now to get back on my feet or do I want more wealth at retirement?'" says **Harry Kasanow**, an investment adviser in Honolulu. "Maybe you should settle for less of the other spouse's retirement accounts, so that you get more cash up front, and then plan on socking away more for your own retirement later."

Pick Your Lawyers

If you want an inexpensive divorce, you both need to choose your lawyers carefully. "We've seen situations where the lawyers don't like each other, and it becomes a contest between them, which the clients didn't want," says Minneapolis

financial planner Ross Levin. "You want lawyers who don't have it in for each other."

You also want lawyers who are interested in negotiating, not litigating. "There are still attorneys out there who like to litigate, who want to go to court and fight it out," Ms. Wilson says. A divorcing couple "should look for attorneys who are interested in getting their clients to settle. This saves money and it also saves relationships, with the children and with others."

Of course, if the couple is pigheaded and the lawyers are litigious, the whole crowd will likely end up in court. At that point, legal costs start spinning out of control. Remember, two days in court will cost a lot more than two days of legal fees. The attorneys involved will spend countless hours on research, all at your expense.

"Often, we have clients come to us after being through a divorce, and they've had legal bills in the hundred of thousands of dollars," Mr. Levin says. "But we've also seen legal bills as low as \$5,000. These are clients who behaved reasonably and used good attorneys."

Better still, Mr. Levin suggests hiring a mediator, who will try to get a couple to negotiate a settlement directly. "One, it's a lot less expensive than hiring two divorce lawyers," he says. "Two, the mediators are usually skilled at dealing with both the emotional and the financial side."

Pick Your Words

Your husband was bullying and overbearing? Your wife was unfaithful? Try not to let the bitterness of the breakup spill over into the financial negotiations.

You can have your lawyers fire letters back and forth, making proposals and counterproposals, while the legal meter runs. But in virtually every divorce I have observed, the couple eventually ends up negotiating all the key details directly. The sooner a divorcing couple reaches that point, the less their legal expenses will be.

"If they won't talk to each other and they have to talk through their attorneys, it's going to cost them," Ms. Wilson says. "But if they can keep their emotions in check, they'll have a lot more money left afterward."

No doubt about it, divorce settlements can be complicated, especially if there is a big discrepancy in the income levels of the two spouses, if there are substantial assets involved or if one spouse operates his or her own business. Similarly, the calculations get muddled if one spouse

inherited a lot of money or came to the marriage with substantial assets.

But oftentimes, it's not that difficult to figure out what a fair settlement is. After all, there are state guidelines for determining child support.

Meanwhile, dividing up the assets isn't that tricky. You calculate what your assets are worth, adjusting values based on, say, the mortgage owed on the house or the income-tax bills embedded in retirement accounts. Then you figure out a fair division, which often will be 50-50.

"The reason people have lawyers is because they can't put their emotions behind them," Ms. Katz says. "You'll be much better off if you look at this as the dissolution of a partnership, rather than the end of a romance."

--To contact Jonathan Clements, write: Getting Going, The Wall Street Journal Sunday, 200 Liberty St., New York, NY 10281. Email: jonathan.clements@wsj.com