



Six tax issues to consider if you're getting divorced

Divorce entails difficult personal issues, and taxes are probably the farthest thing from your mind. However, several tax concerns may need to be addressed to ensure that taxes are kept to a minimum and that important tax-related decisions are properly made. Here are six issues to be aware of if you're in the process of getting a divorce.

1. Personal residence sale

In general, if a couple sells their home in connection with a divorce or legal separation, they should be able to avoid tax on up to \$500,000 of gain (as long as they've owned and used the home as their principal residence for two of the previous five years). If one former spouse continues to live in the home and the other moves out (but they both remain owners of the home), they may still be able to avoid gain on the future sale of the home (up to \$250,000 each), but special language may have to be included in the divorce decree or separation agreement to protect this tax exclusion for the spouse who moves out.

If the couple doesn't meet the two-year ownership and use tests, any gain from the sale may qualify for a reduced exclusion due to unforeseen circumstances.

2. Pension benefits

A spouse's pension benefits are often part of a divorce property settlement. In these cases, the commonly preferred method to handle the benefits is to get a "qualified domestic relations order" (QDRO). This gives one former spouse the right to share in the pension

benefits of the other and taxes the former spouse who receives the benefits. Without a QDRO, the former spouse who earned the benefits will still be taxed on them even though they're paid out to the other former spouse.

3. Filing status

If you're still married at the end of the year, but in the process of getting divorced, you're still treated as married for tax purposes. We'll help you determine how to file your 2024 tax return — as married filing jointly or married filing separately. Some separated individuals may qualify for “head of household” status if they meet the requirements.

4. Alimony or support payments

For alimony under divorce or separation agreements that are executed after 2018, there's no deduction for alimony and separation support payments for the former spouse making them. And the alimony payments aren't included in the gross income of the former spouse receiving them. (The rules are different for divorce or separation agreements executed before 2019.) This was a change made in the Tax Cuts and Jobs Act. However, unlike some provisions of the law that are temporary, the repeal of alimony and support payment deduction is permanent.

5. Child support and child-related tax return filing

No matter when the divorce or separation instrument is executed, child support payments aren't deductible by the paying former spouse (or taxable to the recipient). You and your ex-spouse will also need to determine who will claim your child or children on your tax returns in order to claim related tax breaks.

6. Business interests

If certain types of business interests are transferred in connection with divorce, care should be taken to make sure “tax attributes” aren't forfeited. For example, interests in S corporations may result in “suspended” losses (losses that are carried into future years instead of being deducted in the year they're incurred). When these interests change hands in a divorce, the suspended losses may be forfeited. If a partnership interest is transferred, a variety of more complex issues may arise involving partners' shares of partnership debt, capital accounts, built-in gains on contributed property and other complex issues.

A range of tax challenges

These are just some of the issues you may have to cope with if you're getting a divorce. In addition, you may need to adjust your income tax withholding, and you should notify the IRS

of any new address or name change. There are also estate planning considerations. We can help you tackle the financial issues involved in divorce.

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