



# DIVORCING DURING THE PANDEMIC? HERE'S WHAT YOU NEED TO KNOW

The pandemic continues to affect families and relationships across the country, making working through the realities of divorce potentially challenging. In addition to the multitude of difficult decisions to be made, families are forced to determine how best to proceed now that economic and social norms have been turned upside down.

Due to these unprecedented times, individuals considering or experiencing a divorce should keep in mind several factors.

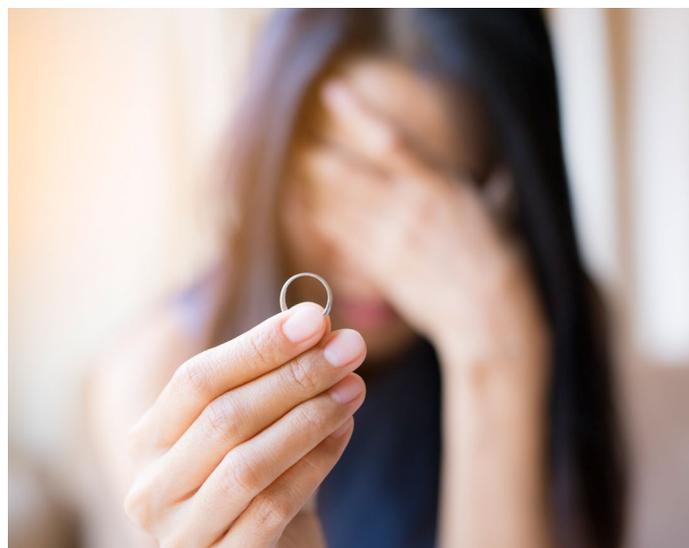
## How should I divide my assets during this economic downturn?

In times of severe economic downturn, moving forward with a divorce or separation may seem ill-timed, at best. However, if you receive legal and financial advice, it may allow you to move forward with your life. Your attorney, tax professional and wealth advisor can help ensure that you are protected when dividing assets as a result of a divorce or separation.

### Strategies for Dividing Assets

Different types of assets are typically divided and separated during a divorce, including real property, securities, tax deferred/retirement accounts, deferred compensation and restricted stock, as well as professional practices and businesses, the value of which are divided. The issues surrounding the division of complex assets is where law and the financial industry intersect. Thus, your attorney will want to work with your wealth advisor and tax professional who have tax expertise to help ensure that the value you think you are getting is actually the value you are getting; and that what may be a seriously depreciated asset because of a crisis like COVID-19 is not overlooked, because its value might significantly rebound in the future.

From a legal perspective, you and your spouse do not have to sell and/or divide assets immediately



upon divorce. You may decide to continue to hold certain assets together until the economic downturn subsides. For example, you and your spouse could continue to jointly own a primary and/or secondary home pending a rebound in the real estate market.

When to value an asset is important. Valuing a home, business or securities in a significantly depressed economy for division or buy-out in a divorce could result in significant prejudice to one spouse. However, each person has his/her own priorities that might creatively work well in this situation.

How to divide an asset is also important. For example, rather than dividing the value of a brokerage/securities account, the assets can be divided in-kind. In other words, each security held in the brokerage account can be divided equally,

with an equal tax basis. For example, if the security at the time of division is depreciated due to the COVID-19 crisis, you each will have the same asset either to sell or hold as you deem fit.

Retirement assets can be divided as a result of a divorce without any tax consequences by using a special order, known as a Qualified Domestic Relations Order (“QDRO”). In addition, IRAs can be divided and rolled over into another tax-deferred account without any tax consequence.

If a Qualified Domestic Relations Order (QDRO) is part of your divorce settlement, it’s important to consider how the terms of that order may need to be addressed in the event that one party is no longer able to perform due to a change in employment, assets or other circumstances.

Dividing assets in a divorce or separation is always a critical element in determining your future financial well-being. Your wealth advisor should discuss with you the appropriate strategy for dividing your assets.

Your wealth advisor will look at your assets individually and as part of your total financial picture. Weaving together the appropriate financial and legal advice might produce a positive result for you in your divorce or separation, even in these most difficult of economic times.

Dividing assets between former spouses is one of the most emotionally fraught aspects of divorce. What many fail to take into account is that, while certain material objects may have sentimental value and lead to disagreements, it’s ultimately critical to focus on appreciable assets like retirement funds, homes and other investments to help ensure you’re covered for the long term.

In dividing investments between spouses, it’s important to distinguish between dividing as a percentage of total assets versus a fixed dollar amount. By dividing assets by a percentage (typically 50%), each spouse walks away with an equal amount of each asset.

Contrast that with dividing assets based on a fixed dollar amount, such as exchanging \$200,000

worth of stock for \$200,000 of home equity. With markets rapidly fluctuating, those two assets might end up with vastly different values a year from now. For that reason, it is important to keep in mind the risk and projected returns of all assets being divided to help ensure that an equitable split is made for both parties.

### **What should I do if I experience a reduction in compensation or furlough?**

The May jobs report revealed a U.S. unemployment rate of 13.3%<sup>1</sup>, slightly improved from April. Some individuals who have maintained their employment, may have experienced a reduction in compensation due to the pandemic.

These circumstances are extremely stressful in the best of times and are even more unnerving if you are going through a divorce or separation. You or your spouse may experience a decrease in compensation, a furlough from employment or, worse, may be laid off from your job. These changes in circumstances may directly affect any temporary or permanent alimony and/or child support agreements or orders under which you and your spouse are operating.

So, it is especially important to work as a team with your attorney and wealth advisor to craft a smart and creative way to address both short-term and possibly longer-term financial changes in circumstances.

#### **How to Navigate Reduced Pay**

Decreased alimony or child support payments under the current circumstances may warrant adjusting your budget. Additionally, if one individual is laid off, that may require higher payments to be made by the other party.

Mortgage and rental payments, in addition to home maintenance expenses, should be weighed within the scope of what an individual can afford prior to or following a divorce. Contingent upon whether those payments fit within a revised budget, it may make sense for you to downsize your living arrangement.

## How can I supplement my cash flow to get through the pandemic?

Your wealth advisor can help you analyze your assets to discuss whether a change in your holdings might increase income to you and your family. Unearned income, such as interest and dividends, and noncash compensation, such as restricted stock or stock options, can be considered by a court in assessing the need for modification.

There are many aspects of cash flow to consider, especially during a time of economic downturn. Your wealth advisor, tax professional and attorney can work together on these financial and tax-related issues to advise you as to whether a modification of alimony or child support is required, or whether a different financial bridge can be created for the time being.

Consult with your tax professional and wealth advisor on whether it makes sense for you to ask for a filing extension beyond the tax deadline.

If you have excess cash, you can still make contributions to IRAs, HSAs and other tax-advantaged accounts until the tax deadline.

Conversely, if you or your family has been affected by the COVID-19 crisis through a personal diagnosis, caring for a family member who has been diagnosed, or losing your job or being furloughed due to crisis, you may have some options as a result of the CARES Act.

### Establish a Team to Navigate This Life Event

It is important to establish a legal, tax and wealth management team to assist you with a divorce or separation, even in the best of times. However, under the current circumstances, strategic partners may help guide you through the legal, economic and tax consequences of your divorce decision-making. For further information on wealth management planning during a divorce, contact your wealth advisor.

<sup>1</sup> ["The Employment Situation-April 2020"](#)

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