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Divorce is Hard Know the Critical Financial Mistakes to Avoid

Building a life with someone comes with many things, such as memories, friendships, family relationships, children, property and pets. While marriages can be healthy and lifelong adventures, not all marriages work out; and while love is not about money, divorce certainly can be. Whether there is just a house and a retirement plans, or something much more complex, such as business ownership, other investments, stock options, and, or the future educational expenses of the children, unraveling a lifetime of work and dividing the marital assets, can be difficult, and emotionally and financially draining.

Escaping the emotional toll that a divorce presents is rarely possible, it is important to approach the process with a reasonable and forward-thinking attitude. Nevertheless, separating yourself from the emotional strain of the divorce process is never an easy task.

Here are some tips to consider if you are considering or facing a divorce:

- Don't become a financial victim. If you suspect your spouse is planning a divorce, make copies of important records and begin keeping track of all expenditures. Even if you were never the one who took care of the family finances, it is time to become an expert.

- Figure out a budget and be honest with yourself. Understanding your financial needs and obligations will benefit you greatly throughout the divorce process.

- Don't use the courts to punish your spouse financially. Massachusetts is an *Equitable Property State*, and consequently, assets that are determined to be part of the marital estate are divided based upon this concept of *equitable distribution*. However, remember "equitable" does not mean "equal", your idea of what is fair may not be the same as what a Judge opines as fair and equitable.

- Hiring a combative attorney is not the same as hiring a zealous advocate. While, not all parties and cases are right for alternative dispute resolution, you never completely ignore other options, such as Mediation or Collaborative Practice. It is always important to remember, being overly litigious, and failing to litigate in good-faith could not only result in an inflated legal bill from your attorney, but may also result in a Court Order directing you to pay a portion of your spouse's attorneys' fees and costs as well.

- Don't forget about the IRS; divorce comes with an avalanche of tax related consequences. If assets need to, or are ordered to be sold, or qualified plans are prematurely withdrawn, this may increase the tax bill, while reducing assets to live on post-divorce. So, carefully plan ahead of time, and obtain an experienced CPA to assist you.

- Don't forget to think about and discuss life insurance. The premature death or disability of a spouse may mean lost support or help paying for college tuitions and health insurance.

- Don't keep the marital home if it's not affordable. All too often couples will fight over who keeps the marital home. While there may be sentimental value or legitimate concerns about uprooting kids from schools, it may not be financially responsible to keep the house; mortgage, taxes and maintenance expenses can quickly drain post-divorce budgets. And do not forget about capital gains! By selling the home during, or soon after a divorce, you will likely receive the maximum exemption of capital gains. Make sure to discuss this in detail with your attorney or CPA.

- Don't forget to change and update your estate plans so that assets and benefits pass you intended. Also, make sure to update any power of attorney, or health care proxy declarations that you may have in place. If you do not have any in place now is the time to make sure they are completed. If you have an estate planner, keep them in the loop about any changes.

- Don't forget to cancel all joint credit cards, and discuss how credit card debt will be settled with your spouse.

- Does one spouse have a qualified plan, such as 401k or pension? Don't agree to a settlement without having a Qualified Domestic Relations Order, (QDRO), in place. If your spouse has a qualified plan, a QDRO will inform the plan administrator who is entitled to the asset and when. This is sometimes an afterthought, but is critical. Pay close attention to the language of these orders. If not worded correctly, there could be delay in when a spouse will be eligible to start receiving benefits; or, it could lead to investment decisions that may be reckless or detrimental to the spouse's retirement interests. Again, make sure to discuss this in detail with your attorney, estate planner or CPA.

- Do not forget about the future educational costs of the children, if any. Coming to a thoughtful plan for college and graduate education now, can reduce the chance that you will be back in court on a Modification 18 years from now.

- Don't underestimate the impact of inflation. Without proper help in reviewing settlement options or preparing a post-divorce plan, it is very easy to forget that the lump sum received today may look like a huge sum, but may be inadequate in the future. Whether for college tuition, medical care, or housing, inflation can take a big bite out of one's budget and resources.

Gaining independence and autonomy can be grueling when going through a divorce. However, having an advocate who will provide you with compassionate, creative, and zealous representation is key.

All the best,

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