YOUR WEALTH JOURNEY — NAVIGATING LIFE'S FINANCIAL MILESTONES

Planning Your Assets in Case of a Divorce

These steps can help reduce financial risk and preserve your family's wealth

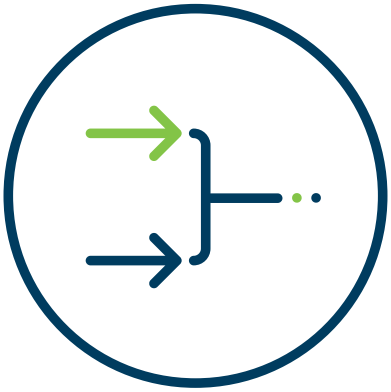
Most people marry with the intention of a long and happy union and do not expect to get divorced. Yet according to the CDC, roughly 40 percent of first marriages ended in divorce.[1]

While it may seem unromantic or skeptical, acknowledging the possibility of a divorce—and considering how to preserve and protect your family's assets and property—can help reduce financial risk, preserve your family's wealth, and ensure that your assets go to the intended family members and recipients.

This type of planning can also reduce the potential for family conflict in the event of a divorce, while making the couple's asset division process overall more straightforward and less stressful.

Here are some steps you can take before and during marriage to prepare for the possibility of a divorce.

1 *www.forbes.com/advisor/legal/divorce/divorce-statistics*



Before Marriage

Before you get married, it's important to consider strategies that can help preserve wealth and potentially protect certain premarital assets, such as a business, inheritance, a second home, artwork, or jewelry.

Understand your state's divorce rules

Laws regarding how property and assets are distributed after a divorce differ by state. Nine states have "community" property distribution where assets and debts are split 50-50; the rest use "equitable" distribution.[2] This stipulates that everything beyond certain gifts and inheritance must be split "fairly" but at the judge's discretion based on factors such as each person's income and job status.

These marital property rules have major implications for what each spouse will receive in a divorce—unless other measures are taken that preempt them.

Consider a prenup

A prenuptial agreement is a document that must be signed before marriage that lays out how assets and debts will be divided should you divorce. Its terms will generally override your state's asset and property division laws.

A prenup can be especially useful when one or both spouses bring considerable assets or debt to a marriage or have children from a previous marriage. If you own a business or expect to inherit shares of a family business, a prenup may include terms that prevent you from having to forfeit a share of ownership in the business or cause major disruption to your business in the event of divorce.

2 *www.businessinsider.com/personal-finance/which-states-are-community-property-states-in-divorce*

During Marriage

Once you're married, there are ways to continue to protect and preserve wealth and help ensure that your assets are properly directed in the event of a divorce.

Consider keeping accounts and assets separate

Commingling accounts and retitling assets to create joint ownership will generally cause those assets to be considered marital property—and thus split in a divorce, following the state's distribution rules. While you may want, for example, your joint checking account commingled for practical reasons, consider keeping any account separate that you hope to maintain full ownership of should the marriage end in divorce.

Preserve the business

When one spouse owns a business or is part of a family business, special consideration should be made to minimize disruption in case of a divorce—which can compromise a business's operation.

Most importantly, make sure to keep business assets separate from any personal assets; this includes not using the non-owner spouse's income or assets to pay for anything business-related.

Putting the business in a trust or securing whole life insurance that can be liquidated to pay out the non-owning spouse in event of a divorce are other common strategies used to protect a business or provide cash to buy out a spouse.

Family Gifting

Extended family and others who make significant gifts or are planning to leave an inheritance may also want to take steps to ensure that those gifts are directed to the intended recipients.

Explore effective giving strategies

How assets and money are gifted to a married couple or their child can affect whether those gifts become marital property. For example, grandparents who want to help pay for their grandchildren's education and want to protect those gifts in the case of a divorce may want to consider paying for expenses directly to the educational institution since gifts made to a 529 college-savings plan or a custodial account, such as a UTMA or UGMA, are technically marital assets.

When transferring business-ownership shares to the next generation, older family members may want to consider gifting strategies that reduce the risk of those shares being treated as marital property in case of a divorce. There are ways to gift or sell shares, such as by setting up a buy-sell agreement that creates rules for who can own those shares.

Look at a postnuptial agreement

A postnuptial agreement is signed *after* a couple is married to protect certain large financial gifts. For example, parents who provide funds for their daughter and son-in-law to buy a home can choose to do so on the condition that the home is titled in their daughter's name only.

Keep in mind that courts often apply more scrutiny to postnuptial agreements than to prenups, due to concern that one spouse may have been coerced into signing it.

Consider setting up trusts

When executed properly, trusts can be very effective tools for providing gifts to younger generations and preventing those gifts from becoming marital property. It's important that any income from a trust not be commingled with a spouse's assets.

Tailoring Your Approach

Evaluating ways to protect and preserve wealth in the event of a divorce is prudent for many families, but it can be especially important for blended families due to remarriage where one or both spouses have children from previous marriages.

Because there are so many facets to consider before, during, and after marriage, it's important to work closely with your William Blair wealth advisor to develop a strategy that's tailored to your individual situation.

If You Get Divorced

If you've decided to end your marriage, the court will determine how and when your assets will be divided—based on your state's marital property rules and any steps you and your spouse have taken.

There are ways, however, to make the property and asset division process easier and more straightforward. These three steps will help you prepare and get organized:

- **Gather your records.** During the divorce proceedings, you will need documentation of your financial accounts and other important records, including any wills, powers of attorney, insurance policies, tax returns (personal and business), and investment statements. It's a good idea to start organizing these once you decide to divorce. If you have kids, you'll need records of their accounts as well.
- **Determine ownership.** Review all your accounts, loans, property documents, and insurance policies and determine whose name is attached to what. Review beneficiaries on accounts and policies—as those may need to be changed. Keep in mind that many states prohibit couples from making any changes to accounts, property ownership, assets, and debts during the divorce proceedings. You may want to hold off making changes, including updating beneficiaries, until the court authorizes you to do so.
- **Track income and expenses.** Keeping an ongoing record of your income and expenses can help make the divorce process more efficient and ensure that you have the information readily available when it is needed.

Contact Us:

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