

## Divorce and Money

*A Certified Divorce Financial Analyst® (CDFA™) can help you avoid many common financial pitfalls with pre-divorce financial counseling.*

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**A**fter his divorce, David went to a financial adviser to determine how to best position his assets. Together, David and his planner decided to do a total financial plan for him. During the planning session, it became apparent that during his marriage David's wife had done all of the investing. She chose all the investments, made all the decisions and invested all the money. At the time of their divorce she said, "Let's just split everything 50-50. You take this half of the assets and I will take that half, is that OK?" David answered, "Well, I guess that sounds pretty fair. That's OK with me."

Unfortunately, there was something he neither knew nor understood; neither did his attorney, and neither did the judge. They didn't realize that David would have to pay taxes on his half of the assets when he tried to access them. His ex-wife, on the other hand, could access her half of the assets tax-free. His 50-50 split cost him an additional \$180,000 in taxes. Had David met with a financial advisor specializing in divorce before the divorce was finalized, he would have been in a better position to ask for a more equitable settlement.

This parable has an unfortunate ending that could have been prevented. Pre-divorce financial counseling can help people going through a divorce arrive at a settlement that is fully understood by all involved. Who do people turn to for such assistance? When people think about getting a divorce, the first professional that comes to mind is an attorney. Often, a financial adviser (a CPA, CFP® or a CDFA™) is not considered until later in the divorce process — or even until after the divorce is final. Financial problems can tear a marriage apart, and they are often the primary cause that eventually leads to divorce. If a couple cannot solve their financial problems during the marriage, it is unlikely that they will be able to agree on financial issues during a divorce.

### ***A CDFA™ can help you address questions such as:***

- How do we place a value on our property?
- Who gets what property?
- What are the tax implications?
- How do we divide retirement funds and future pension assets?
- How will the lower-earning spouse survive financially?
- What kind of additional financial support does the lower-earning spouse need?
- Who gets the house?
- Will that person have to pay capital gains tax?
- Who gets custody of the children?
- Who will pay for day care, medical expenses, college, summer camp, orthodontia and other expenses related to the children?
- How much spousal support should be paid (if any)?
- What happens if a paying ex-spouse dies?

Because of the financial complexity of many divorces, more and more financial professionals (financial planners and accountants) are being asked to play an active role in helping individuals and attorneys sort through the financial issues related to divorce. Attorneys are also looking for new ways to help their clients obtain an equitable financial settlement. Attorneys, mediators, arbitrators, and judges are looking for experts that are knowledgeable about the financial issues of divorce.

While most financial planners and accountants excel in their chosen field, often, they have little or no training specifically related to the financial

issues of divorce. When a client or prospective client asks them for assistance, many financial planners and accountants are unable to provide the information the client needs — or worse, they are unaware that they lack the knowledge required and provide the wrong advice. Not only does the client potentially suffer, but the financial expert's reputation suffers as well.

**Common mistakes include, but are not limited to:**

- Believing that a 50-50 division of property is an equitable division of property
- Negotiating to retain the marital home when the client cannot afford it
- Failing to obtain complete information on all retirement plans, employee benefits, and stock options
- Incorrectly evaluating the defined benefit pension plan
- Thinking that retirement assets have the same value as an equal dollar amount of nonretirement assets
- Not understanding the different division methods for retirement assets and failing to understand the method that is in the client's best interest
- Not understanding the purpose of a QDRO and the need to get it completed and filed at the time of the divorce or immediately after the divorce is final
- Not looking at the long-term impact of a financial settlement
- Failure to factor in inflation and investment returns when looking at the long-term impact of a settlement or using unrealistic numbers in the evaluation
- Not being aware that it is possible to take a distribution from a retirement plan prior to age 59 ½ and avoid the 10 percent penalty
- Lack of information on the need to protect the survivor benefits of the non-employee spouse
- Improperly structuring spousal or child support payments
- Using a QDRO inappropriately to divide an IRA
- Making isolated financial decisions versus looking at the big picture and analyzing how each financial decision impacts other decisions
- Not taking into account transaction costs when evaluating a settlement offer

- Failing to understand the tax implications of alimony payments versus child support payments
- Not understanding methods of dividing stock options or the tax implications
- Failing to consider the cost basis of property
- Not understanding the capital gain taxes upon the sale of the marital home or how the sale can impact each party
- Not understanding how to divide debt
- Not taking into account the effect of deferred taxes when dividing the assets

An experienced CDFA™ brings training and knowledge in all of these areas and can assist each of the parties to a divorce make clearer, more confident and knowledgeable financial decisions, including:

- Divorcing couples
- Divorce attorneys
- Mediators
- Judge (will often review financial information provided to assist them in making a fair decision or ruling)

These are some of the questions the divorce attorney faces in each divorce case. What many attorneys struggle with, however, are the intricate financial details, such as: tax issues, capital gains and dividing assets including pensions.

As finances, investments and tax laws become increasingly complex, more and more attorneys are bringing a financial expert into the divorce process right from the start to obtain the most equitable settlement for their clients. As most attorneys will tell you, they attended law school to become experts in the law, not to become financial experts. In addition, even attorneys who bring a significant financial expertise or understanding are not allowed to testify on behalf of their clients. A CDFA™, however, can testify on behalf of a client to help the court better understand the client's financial position, or the positive or negative implications of a particular financial agreement for the client.



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For specific questions on this article or about divorce financial planning, investment management, life and disability insurance, tax/estate planning, philanthropy, and/or other financial topics, contact Frank Fantozzi at 440.740.0130 x222. You may also e-mail him at [Frank@PlannedFinancial.com](mailto:Frank@PlannedFinancial.com).

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