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The Finance of Divorce in an Economic Downturn

Financial stress is one of the leading causes of divorce. This is probably not a big surprise to anyone, but what may be surprising is that men experience a higher level of stress about money in a recession than women, who experience money stress more regularly regardless of the current economic situation. "Recession has always been a factor raising divorce rates," says Gary Becker, Economist with the University of Chicago Business School and Nobel Laureate, based on studies he conducted in 1977 and published in the *Journal of Political Economy*. He goes on to state that couples experiencing a significant change in income, for example from a job loss or receipt of a large bonus, are at risk of divorce.

When the economy takes a downward turn, what do you need to consider when preparing for a divorce? First and foremost, you need to evaluate your current financial position. This involves sitting down and determining the current value of all of your assets, liabilities and income. While your liabilities will be substantially the same as they were in a prosperous economy, your assets on the other hand are probably not. It will not prevent you filing for a divorce. It may however, cause you to have to move in with your parents.

What assets are affected and how are they affected? Real estate, investment accounts and retirement accounts are the three largest assets that are affected in an economic downturn, all of which will be affected adversely. Job stability may also be affected. The unemployment rate rises with large lay-offs occurring when the economy heads downward. Small businesses usually see a decrease in profits and may even experience losses.

In Denton County, Texas, real estate prices have decreased by 2.10% over the last year, according to research conducted by Sperling's Best Places. This could potentially cause you to have a negative equity position. So, what does that mean? In many divorce situations, couples try to sell their marital home and split the equity. You may have to hold onto your house and sell it when the market improves, or if you do decide to sell your house, you may be doing so at a loss. If both parties are on the mortgage and one party keeps the house, they may not be able to refinance.

Many people have seen losses in their investment and retirement accounts of 50% or more recently. This type of loss can have a significant impact when decisions are made dividing the marital estate. If you have a pension, it should not be affected. Many people seeking a divorce will find that their portfolio has decreased dramatically and they are now unable to retire when they wanted, they may not be able to afford college for their children, and they may have negative equity their marital

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home. They may find that they can't sell the house because there is no market, or they choose not to sell because they would owe more than they could sell it for.

Whatever your situation, when you are making decisions as to how to divide your marital estate, especially in an economic downturn, you should consult a financial expert. Find someone that is qualified to help you with your divorce, someone that understands the divorce laws and the intricacies of the different assets that you hold. This person can calculate the present value of your pensions so that you can compare apples to apples. They can also help you to understand the tax consequences of dividing certain assets and liabilities. Additionally, they can help you to negotiate a fair and equitable settlement and show you the future impact of different settlement proposals on your financial wellbeing.

For example, did you know that if you have been married at least 10 years that you have the option of drawing your full social security benefits upon retirement – or one-half of your spouses' benefits? You can determine the amount that is greatest and inform the Social Security Administration of your decision. This will not impact the amount that your spouse is able to draw, but it could be significant for you.

Are you aware that if you receive a qualified retirement account, such as a 401(k), that you may be able to withdraw a portion or all of the amount through the divorce process and not owe the 10% IRS penalty? You will still owe income taxes if you do not keep the funds in a qualified retirement account, but you may not be subject to the penalty. This can be very useful depending on your situation.

Who carries the health insurance, you or your spouse? If the coverage is carried by your spouse, you may be able to continue your coverage under COBRA for up to 36 months from the date of divorce. You must make the elections, so ensure that the plan administrator has a valid address to send you the election form.

Whatever your situation, an economic downturn will add to the stress of an already stressful divorce. Make sure you take the time to review your situation with professionals trained to help you so that you fully understand where you stand.

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