

PERSONAL FINANCE

Five Divorce Settlement Blind Spots: An Expert's Guide to What You Can't Afford to Miss

Even the best lawyers can miss tax and other financial considerations when drafting complex divorce settlements, so specialist advice is vital from the outset.



Divorce is never simple and often requires the help of specialists. Most people engage a lawyer right away to help them navigate the complex path ahead.

However, as a Certified Financial Planner® and Certified Divorce Financial Analyst (CDFA®) who's been advising women on their financial lives for nearly 30 years, I've seen situation after situation in which even good lawyers overlook critical financial considerations.

When a couple have complex finances, there's a lot that can slip through the cracks in the pre-, during and post-divorce phases, potentially leaving individuals vulnerable to long-term financial challenges.

It doesn't need to be this way.

Here are five financial mistakes that are often made when a couple divorce and why it's essential to give these matters the attention they deserve.

Before the divorce

No. 1: Engaging only with a divorce attorney instead of a team.

The number one thing I've thought over the years when working with people after their divorce is, I wish I could have started helping sooner.

Many people assume that hiring a divorce attorney is the first and only step they need to take to help protect their interests during a divorce. However, an attorney's primary focus is navigating the legal aspects of the divorce and not developing a new long-term financial plan that ensures security.

It's often not until after the divorce that one realizes they have a legal settlement but are missing a financial plan. In my experience, I've seen too many people engage an adviser after the asset division process, which is often too late.

It's important to consider consulting with a financial adviser before finalizing your settlement, as this could help optimize your financial outcome significantly. This is the main reason that getting an adviser on your side as soon as possible is an important piece of the puzzle.

While your attorney handles legal matters, a CDFA is your financial advocate, helping you (and your legal team) understand the implications of potential settlements. They can:

- Organize your share of the balance sheet
- Assess your short-term income needs
- Model potential financial outcomes by considering inflation, investment returns and more
- Outline tax consequences tied to specific decisions
- Help define longer-term goals (and the funds to support them), such as retirement or funding children's education

- Partner with other professionals, such as certified public accountants (CPAs) or estate attorneys, to help ensure an integrated financial approach

No. 2: Not having a plan for cash flow needs before negotiations.

Many individuals enter asset division discussions without fully understanding their cash flow needs to maintain their lifestyle — both during and after the divorce. Without a financial plan from the outset, it can be difficult to advocate for yourself during negotiations.

Consider what your non-negotiable needs are versus lifestyle extras. How does child support or alimony factor into maintaining your family's quality of life?

This is where collaboration between your attorney and financial adviser becomes critical. Having a financial advocate who can calculate and justify your cash flow requirements can be key to your financial security while your attorney is working out an agreement.

During the divorce

No. 3: Considering only the face value of assets.

When dividing assets, it's easy to focus solely on their current value. But not all assets are created equal in terms of potential growth or utility.

This is especially important to account for when there's a range of complicated assets involved.

Consider some examples:

- Two retirement accounts might have the same balance, but one is an after-tax account and another is pre-tax. The after-tax account is considerably more valuable since its withdrawals will not be taxed again.

- Stock options or restricted stock units (RSUs) have the potential for future value, which may not be immediately apparent from their current paper value.
- An investment property may have an appraised value comparable to an owner-occupied home, but the investment property provides an ongoing income stream.

Failing to account for the potential growth, tax and cash-flow implications of these assets could impact your financial results. An adviser can help you evaluate and negotiate asset divisions based on both their present value and future potential.

No. 4: Overlooking tax implications of asset division.

Tax implications can significantly alter the actual value of assets post-division. For example:

- Selling an investment property may trigger substantial capital gains taxes
- Cashing out retirement accounts prematurely can lead to penalties
- Liquidating a large asset can create major tax obligations that could be deferred with a strategic diversification process
- By not considering these factors, you risk agreeing to settlements that appear fair on paper but end up losing significant value because they lack tax planning.

In general, selling a large amount of assets in a short time may potentially lead to higher tax rates, but there are strategies to help mitigate tax losses.

During a divorce, you should fully understand the tax impact of each decision and make informed decisions accordingly.

After the divorce

No. 5: Not tidying up account information to maintain privacy.

Once the divorce is finalized, it's tempting to breathe a sigh of relief and move on, but leaving critical account information unchecked could create serious complications later.

Key areas to address include:

- **Beneficiary designations.** Retirement accounts, life insurance policies and pay-on-death accounts will transfer to the named beneficiaries, regardless of divorce. If your former spouse or their family members remain listed, they will receive these assets. Take care to update these designations to reflect your current wishes.
- **Digital assets.** Update user IDs and passwords for shared accounts to prevent unauthorized access. Do the same for any passwords that may be easily guessed by unwelcome users. Additionally, adjust privacy settings on social media and update legacy contacts for online accounts to align with your new preferences.

Tidying up these details helps ensure your financial and personal privacy while safeguarding your assets.

Divorce is a challenging time, emotionally, legally and financially. Even with a good divorce attorney, many people often don't realize until it's too late that they have blind spots in their financial plan.

By addressing these commonly overlooked issues, you can help lay the foundation for a more financially secure future. Taking a proactive approach to your finances throughout the process can provide a source of empowerment as you move forward divorced — but not derailed.

NYSUT NOTE: It's always best to try to prepare for the unexpected ahead of time. Getting a divorce isn't in anyone's playbook, but you can make sure that you're prepared if it does happen. The NYSUT Member Benefits endorsed [Legal Service Plan](#) and [Financial Counseling Program](#) can help get your financial life in order so that the unexpected won't take you by surprise.

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Kara Duckworth is the Managing Director of Client Experience at Mercer Advisors and also

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