

Divorcing couples should understand these 4 tax issues

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When a couple is going through a divorce, taxes are probably not foremost in their minds. But without proper planning and advice, some people find divorce to be an even more taxing experience. Several tax concerns need to be addressed to ensure that taxes are kept to a minimum and that important tax-related decisions are properly made. Here are four issues to understand if you're in the midst of a divorce.

Issue 1: Alimony or support payments. For alimony under divorce or separation agreements that are executed *after* 2018, there's no deduction for alimony and separation support payments for the spouse making them. And the alimony payments aren't included in the gross income of the spouse receiving them. (The rules are different for divorce or separation agreements executed before 2019.)

Issue 2: Child support. No matter when a divorce or separation instrument is executed, child support payments aren't deductible by the paying spouse (or taxable to the recipient).

Issue 3: Your residence. Generally, if a married couple sells their home in connection with a divorce or legal separation, they should be able to avoid tax on up to \$500,000 of gain (as long as they've owned and used the residence as their principal residence for two of the previous five years). If one spouse continues to live in the home and the other moves out (but they both remain owners of the home), they may still be able to avoid gain on the future sale of the home (up to \$250,000 each), but special language may have to be included in the divorce decree or separation agreement to protect the exclusion for the spouse who moves out.

If the couple doesn't meet the two-year ownership and use tests, any gain from the sale may qualify for a reduced exclusion due to unforeseen circumstances.

Issue 4: Pension benefits. A spouse's pension benefits are often part of a divorce property settlement. In these cases, the commonly preferred method to handle the benefits is to get a "qualified domestic relations order" (QDRO). This gives one spouse the right to share in the pension benefits of the other and taxes the spouse who receives the benefits. Without a QDRO the spouse who earned the benefits will still be taxed on them even though they're paid out to the other spouse.

More to consider

These are just some of the issues you may have to deal with if you're getting a divorce. In addition, you must decide how to file your tax return (single, married filing jointly, married filing separately or head of household). You may need to adjust your income tax withholding and you should notify the IRS of any new address or name change. If you own a business, you may have to pay your spouse a share. There are also estate planning considerations. Please contact us to help you work through the tax issues involved in divorce.

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The Law Office of Eugene Gorrin, LLC
17 Watchung Avenue, Suite 204
Chatham, NJ 07928
973.701.9300
egorrin@gorrinlaw.com
www.gorrinlaw.com