HELP YOUR CLIENTS AVOID NINE COSTLY FINANCIAL ERROS WHEN GOING THROUGH A DIVORCE

Mishandling financial matters incident to a divorce can cost tens of thousands of dollars. In my 16 years of practice, I have seen the same problems over and over. This is my list of the 9 Costly Errors To Avoid When Going Through A Divorce.

1. **Not evaluating the defined benefit pension plan correctly.** Errors are caused by a number of mistakes, including: 1) Not understanding your state law on the valuation of pensions. For example, at what date is the valuation to be based upon? What projections are to be made on continued salary increases? Against what number is the marital fraction to be applied? 2) Not understanding the pension plan. For example, is the retirement indexed to inflation? How is the ultimate retirement calculated? When is the earliest date the person can retire with an unreduced pension.
2. **Not understanding the 72(t)(2)(C) section of the tax code.** This IRS rule says that any monies coming from a qualified plan to the non-employee spouse can be spent without incurring the 10% penalty even if this person is less than 59 ½ years old. Taxes will be paid on it. (An IRA is not a qualified plan.) If the monies are transferred from the qualified plan of the working spouse to an IRA for the non-working spouse, and then a portion is withdrawn, the 10% penalty will then apply, in addition to taxes.
3. **Not understanding the purpose of QDRO.** The Qualified Domestic Relations Order (QDRO) is a legal document which, among other things, tells the plan administrator the amount (either percentage or dollar amount) to be given to the non-employee spouse pursuant to the divorce. Many plans do not allow for a QDRO! And the pension plan takes precedence over a court ruling. The plan documents must be reviewed to ascertain how that company handles a division of retirement assets in the case of divorce. A QDRO should only be prepared by an expert specializing in pensions.
4. **Not protecting the survivor benefits of the non-employee spouse.** Whether the ex-employee spouse dies before or after the pension starts paying out to the non-employee spouse, these benefits should be protected in the language of the QDRO.
5. **Violating the front loading alimony rule.** An IRS rule says that if the alimony is more than $15,000 per year, and the payer of alimony wants to deduct the whole amount of alimony, alimony needs to be paid for at least 3 years. The amount can change. But if alimony drops by more than $15,000 from one year to the next, there will be tax recapture on the excess.
6. **Not understanding the link between length of alimony and child support.** An IRS rule says that alimony cannot end or be reduced within 6 months before or after the date at which the child reaches age 18, 21, or the age of emancipation in their state. If this happens, the entire amount of alimony from beginning is

considered to be child support and may not be deducted from taxable income. This may trigger tax recapture.

7. **Not insuring alimony.** Here are 3 common methods of insuring alimony: a. By life insurance b. By disability insurance c. By purchasing an annuity which will pay out the alimony.
8. **Not understanding that the wife should not always get the house.** Many women count on alimony to support a very high house payment, which is often two to three times what they could pay in rent. This does not make good financial planning sense. One can never count on alimony.
9. **Not considering the basis property.** If the recipient is to sell real estate property which has a low basis, this could trigger a he capital gains tax. This fact should have been taken into consideration when the property was being divided. The same principle could apply to investments such as stocks and mutual funds.

Good luck to you!