

PLANNING SECTION

The CPA's role in divorce proceedings

BY DON STALLINGS

As the economy cools and couples income declines, the monetary pressure on the marriage is many times the straw that breaks the camel's back.



One of the most devastating things that can happen to a family is when mom and dad decide they can no longer live together. Non-working spouses can find themselves in desperate financial straits; working spouses can be saddled with alimony and child support payments and property settlements that are hard to fund; and perhaps worst of all, children find their lives and support mechanisms turned upside down. For all these reasons couples should seek counseling and deplete all available avenues before seeking a divorce. For

young people who have not yet tied the knot, think long and hard before you decide to marry, and when you say "for better or worst until death do us part", take that vow sacred.

In Mississippi only marital property is divided. Marital property is generally any property acquired during the marriage unless it is a gift from one's family and is not commingled with marital assets so that it cannot be separately identified. Nonmonetary contributions are sometimes recognized. (i.e., a court may award a percentage of marital property to a homemaker in a long-term relationship for contributions made through child care and home-related work). Spousal contribution to the other spouse's education is also sometimes recognized. It doesn't matter whose name the property is in; if it is marital property, it is generally divided between the spouses.

Because of the difficulty of identifying marital property, a CPA is frequently engaged on either a consulting basis or

as an expert witness or both. If the couple owns a business or professional practice, it is almost impossible to divide marital property without the help of a CPA or other valuation consultant to value the business or professional practice interest.

Determining the state and federal tax consequences of various proposed property distribution and support agreements calls for the assistance of a CPA.

It is advisable to reach a settlement out of court if at all possible, and except for the simplest of cases it usually takes the assistance of a CPA to run the numbers. It is common that the non-moneyed spouse (usually the wife) will not have the resources to hire CPAs and other experts needed to adequately go through the divorce proceeding. Most CPAs will work with the non-moneyed spouse if there is any indication that the wife will have adequate funds to pay their bill after the divorce from a property settlement, alimony, or a combination of both. Even on very limited budgets, a small

amount of advice from a CPA can yield substantial returns in terms of what the client will realize in the divorce.

Many CPAs refuse to do divorce work because it is such an unpleasant setting, but they hesitate to refer their clients to other CPAs who perform divorce work for fear they may lose this client to the referred CPA. To overcome this barrier, our firm will grant a non-compete agreement to CPA firms referring divorce work. When you are looking for a CPA to represent you in a divorce matter, make sure he is experienced in divorce work, and that he has no conflicts of interest that could jeopardize his work.

Hopefully you will never have to go through the pain of a divorce, but if you do, the second person you hire after a good attorney should be a well-trained CPA. **DBJ**

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