

# divorce matters

## Separating your finances

Divorce means more than physically separating a family. It also means separating a family financially. Both can bring great emotional stress. You will come through the process in a better financial state, however, if you can keep your emotions from influencing your financial decisions. At the very least, you will be able to make better financial decisions in the future for yourself and your children.

The following information will make you aware of some issues that accompany the division of finances during a divorce. It is not intended as a complete guide or as a substitute for legal or financial advice.

### Preparing for financial separation

Often, one person in a marriage has taken primary responsibility for financial management and record keeping. If you are not well informed, realize that you are helping yourself if you put some work into this stage. Gathering the financial information keeps your legal bills down and educates you about your family's finances. This knowledge provides you with a more realistic view of your financial situation as decisions are made. The financial facts checklist on page 4 will help you gather the information you need.

### Financial Responsibilities

1. Gathering information
  - Keeps legal bills down
  - Helps you learn family finances
  - Prepares you for financial decisions
2. Negotiating property division
  - Calls for equitable distribution
  - Requires determining needs
  - Includes income tax consequences
  - Involves legal issues
3. Managing debt
  - Calls for prompt action
  - Requires listing unpaid balances
  - Affects your credit rating

Even if your divorce is friendly, don't count on good will to determine what you should do about joint accounts. Be aware that either person can remove all the money from a joint account or charge up a credit card. Look at your situation objectively. Apply your own common sense. You should be moving toward eliminating the financial ties to the person you are divorcing. The ultimate goal is to create two financially separate households from one. It may not be possible to cut all connections, but your risks can be reduced. Seek the advice of an attorney, an accountant, or another financial professional to clarify tax consequences and other financial issues.

## Dividing property

In general, each person is entitled to an equitable or fair distribution of the property. Property includes automobiles, homes, and furniture, in addition to possessions such as cash value insurance policies, pension funds, savings accounts, etc. Equitable distribution weighs each person's contributions to the marriage, including nonfinancial considerations, to determine a fair division of the property. Equitable distribution does not necessarily mean equal division. If you received an inheritance or gift during the marriage, you are normally entitled to keep that property. Also, you may be entitled to receive credit for property you brought into the marriage.

As you negotiate the division of property, think about your needs, the needs of your children, and the income tax consequences of your decisions. Things that were of great value to you in the marriage may be of little use to you after the divorce. One warning is to avoid written agreements regarding property prior to speaking with your attorney. Documentation of any sort is often considered valid by the courts and may stand in the way of equitable distribution of property.

Find out whose name the property is in and make sure it is changed after the divorce to reflect the decisions identified in the divorce decree. For instance, if a vehicle is in your name and your spouse gets that vehicle as part of the divorce settlement, make sure the title transfer is completed. If your spouse would have an accident after the divorce and the spouse is sued, you also could be sued if the vehicle is still in your name.

## Dealing with debt

When you divorce, you not only divide property but debt as well. In general, you both are responsible for paying any debts that are acquired during the marriage. Managing debt issues carefully during the divorce process may lead to less conflict and a more stable environment for you and your children.

You should act promptly to close all joint credit cards or other lines of joint credit. Be sure to establish credit in your own name before doing so. Often you can open an individual account when you close a joint one. A credit card can help you through some shortterm emergencies during the divorce transition. However, avoid saying 'charge it' rather than making necessary cuts in spending after divorce.

Make a list of the outstanding balances on any credit cards or other debts. Get the address of a credit bureau from the phone book and request a credit report to make sure you are aware of all open accounts. Once the divorce is filed, debts should be divided between you and your spouse and each person should be responsible for payment of his/her debt.

Four basic options in allocating the debts acquired during the marriage include the following:

1. Sell joint property to pay off debts.
2. You agree to pay the bulk of the debts in exchange for getting a greater share of the property or an increase in alimony.
3. Your spouse agrees to pay the bulk of the debts in exchange for getting a greater share of the property or an increase in alimony.

- Divide your property equally and divide the debts equally.

From your perspective, the first two options are much less risky than the second two alternatives. Remaining connected to someone financially puts you at risk. Even if you have to borrow money to get through the divorce, it could prevent problems later. Be sure to discuss your options with your attorney and/or a financial adviser. Agreements regarding assignment of debts and property should be clearly spelled out in the divorce decree.

You should attempt to remove your name from those debts that your spouse will keep. Write to companies and inform them of your impending divorce and ask them to close joint accounts or remove your name from an account. Request the amount of any outstanding balance, and indicate that you refuse to be responsible for any charges made after the date of your letter. Request a response from the creditor and keep a copy of your letter for your files. While such a letter may not fully protect you, it is better than taking no action. You can request that credit card accounts be made inactive while the balance is being repaid. This prevents further charges from being made on the account. Remember that even after the divorce is final, creditors may attempt to collect on debts from both partners. A divorce decree will be honored by the courts, but may not matter to collectors — their goal is to collect the money. It is not always possible to remove your name from a joint debt until the debt has been paid in full.

The financial separation that comes with the divorce process can be made less difficult if you find out what your options are and remain aware of your financial situation. Understand that this process will take time, but the payoff is a brighter financial future.

For more information, contact the following:

- IOWA Concern — 1-800-447-1985  
Provides confidential assistance and referrals for stress, legal questions, and financial concerns.
- Legal Services Corporation of Iowa — 1-800-532-1503  
Aides in finding legal assistance for divorce and child custody cases involving low-income families from abusive situations.
- Iowa Commission on the Status of Women — 1-800-558-4427  
Provides information, referrals, and publications regarding the legal rights of women.

**Additional resources from the “Divorce Matters” series available through the Extension Store, store.extension.iastate.edu:**

- Talking with children (PM 1638)
- Visitation dos and don’ts (PM 1641)
- Coping with stress and change (PM 1637)
- A child’s view (PM 1639)

## Financial facts checklist

Gather these documents as you prepare for divorce. Place a check (3) in the blanks corresponding to the items you have. Make note of asset and debt ownership (j-joint, h-husband, w-wife)

	Tax returns—state and federal—past 5 years		Expense account
	Pre-and post-marital (nuptial) agreements		Insurance
	Previous divorce documents including property settlement		Disability
	Wills and trust documents		Life
	Written agreements with partners or employers		Medical
	Pay stubs—both spouses—past 3 months		Military
	Family records (names, birthdates, social security numbers)		Severance pay
	Documents from:		Sick pay
	Certificates of deposit		Stock options
	Checking/sharedraft accounts		Travel benefits
	Collections—coins, stamps, etc.		Vacation pay
	Credit card accounts		Retirement plans:
	Mortgage/lease/rental info.		401K or 403B
	Other debts		Defined benefit plan contributions
	Personal notes payable to you		ESOPs (Employee Stock Option Plan)
	Real estate records		IRAs or Sep IRAs
	Savings accounts		Keoghs
	Stocks, mutual funds		Money purchase plan contributions
	Insurance policies—both spouses:		Profit sharing plans
	Automobile		Social Security
	Disability		State and/or Federal
	Health (parents and/or children)		Tax Sheltered Annuities
	Homeowners/renters		Financial Statements
	Liability		Cash flow or income and expense statement
	Life		Net worth—list of assets and debts
	Employee benefits:		Safe deposit box contents
	Auto allowances		Statements or documents regarding:
	Bonuses		Personal injury awards
	Cafeteria plans		Separate property—inheritances, gifts and others
	Deferred compensation		

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