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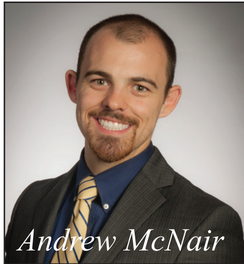
Marriage Is About Love; Divorce Is About Assets



Forever is not as long as it used to be. Although we marry with the hope that it will be forever, factors like increased life expectancy and financial strain sometimes lead to the growing trend dubbed "the Gray Divorce."

"Since 1990, the divorce rate for Americans over the age of 50 has doubled, and more than doubled for those over the age of 65," according to a Washington Post article that cited research by Susan L. Brown and I-Fen Lin, sociologists at Bowling Green State University.

To ensure your retirement remains a happily ever after story, please take note of the following mistakes divorcees in or nearing retirement often make.

1. Not Having a Pre- & Post-Divorce Budget

Many nightmarish daydreams surround making a budget. However, the goal of creating this budget is to create a detailed itemization of your income and expenses. It will help you visualize the gap between your income and expenses before entering the settlement process. It is important that you are crystal clear on what expectations your current lifestyle affords today, and, more importantly, what lifestyle you want to have after the divorce.

2. Mixing Emotional Attachments to Your Divorce Settlement

When getting a divorce, deciding to give up your home or the piece of land where you planned on building your dream home can be heartbreaking. Instead of being emotionally charged when making these tough financial decisions, take some time consider the plausibility and practicality of still living in the same home. Many times, individuals find out the hard way about the necessary expenditures that go along with upkeep of the home. For example, insurance, taxes, utilities and other maintenance costs are overlooked. Oftentimes, selling or giving up these emotionally tied assets is better in the long run because you can start a brand new chapter of your life.

3. Forgetting Those Old Estate Planning Documents

At the top of your to-do list following the divorce, plan a trip to a new estate planning attorney. The last thing any of our clients wants is to endure hours after hours of mediation only to discover afterward that all the ties were not officially cut. Your desire is leave a legacy, not a dark cloud full of challenges on your will, trust(s) and beneficiary designations. Save your legacy from future legal battles and pull the trigger on redrafting those essential legal documents like your last will and testament, living will, power of attorney and revocable trust.

4. Neglecting the Cost of Divorce at Tax Time

After your divorce is complete, request from your mediator or family law attorney an itemized list of all the services performed to finalize your divorce. Attach this to all your pertinent tax documents for your Certified Public Accountant to review, then discuss what you may be eligible to write off for tax purposes. Oftentimes it can be anywhere from 25 to 50 percent of your divorce-related expenses. To ensure this happens, your CPA must prepare a Schedule A and report these expenditures.

5. Disregarding the IRS Code 72(t)(2)(C) to Take Distributions From a 401(k)

When entering divorce, a client's main concern is to maintain the same lifestyle they've grown accustomed to. However, when the same income is now going to support two households instead of one, cash flow can become tight. While the divorce is still underway, being able to tap into assets becomes incredibly important, and sometimes involves tapping into qualified plans. To avoid families enduring the 10 percent early distribution penalty if they are younger than 59 ½ years old, families can take advantage of the 72(t)(2)(C) to take a disruption from their qualified plan (not an individual retirement account, or IRA). Please understand the tax code does not eliminate the potential income tax impact. Also, keep in mind, after a plan has been rolled over to an IRA, these distribution rules will no longer apply.

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