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Green Bee
Advisory

**A divorce can have a profound impact on your finances.
We outline key considerations for maintaining your financial health
as you proceed through the process.**

No matter whether your divorce is amicable or contentious, it can have a profound impact on your finances. There are myriad rules and regulations to consider; we outline some of the most significant and how they could impact your assets.

Who Gets What
No matter where you reside, generally, any assets or property that you acquired while married will be divided when you divorce. There are a few exceptions: for instance, if you inherited assets or received gifts individually, the division rule may not apply. Additionally, you may be able to keep the assets and property that you acquired before you got married.

However, your state law will set out how to divide your assets and property, and it will follow one of two routes:

1. **Common law property states** include those states where the judge has discretion to listen to individual circumstances before dividing assets and property. Those factors include earning ability for each spouse, the duration of the marriage, and the amount that each spouse contributed to building the marriage's assets. Most states follow this format, with the exception of Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.

2. **Community property states**, on the other hand, are those in which courts generally divide assets and property acquired during the marriage equally.

What About Debt
Debt survives a divorce, and states differ as to how they allocate which spouse is responsible for which debt.

1. **Common law states** (see above) assign debt acquired in individual accounts to the account holder, while debt in joint accounts is generally treated the same way as assets and property.
2. **Community property states** typically divide debt equally between spouses, no matter whether it was from an individual or joint account.

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You should close all joint accounts post-divorce, to avoid being responsible for debts that your spouse incurs. Once the divorce is finalized, have them reclassified as individual accounts by your creditors.

If you and your spouse have a mortgage for a home that has appreciated in value, consider selling it before the divorce is finalized, as the IRS allows you to take advantage of $500,000 in realized capital gains if you are a married taxpayer, an amount that is cut in half for single filers. We recommend consulting a tax advisor to navigate these rules.

Retirement Assets
If you or your spouse has money in a 401(k) or pension plan, it may also be divided during a divorce. You can seek a share of your spouse's 401(k) or pension plan benefit if you obtain a Qualified Domestic Relations Order (QDRO) and present it to your spouse's plan sponsor before distributions have been completed.

If your efforts are successful, you may decide to roll them over into an IRA to defer taxes. Discuss this option with a financial professional who is familiar with the divorce process.

Estate Planning
If you have already drafted a will, make sure that you review it (and if you don't have one, work with an estate planning attorney to draw one up). The attorney will work within your state's estate laws to distribute your assets properly.

Review your beneficiary designations for any pensions, 401(k)s, and insurance policies. Note that a spouse is required under federal law to be the sole beneficiary of pension and 401(k) benefits unless that spouse waives such rights.

With so much at stake financially as you proceed through a divorce, don't go it alone; it's best to work with an attorney or financial professional who specializes in the process to help protect your assets to the greatest extent possible.
