

A man and a woman are sitting on a wooden park bench outdoors. The woman is on the left, wearing a light blue top and dark pants, looking towards the man. The man is on the right, wearing a dark blue t-shirt and jeans, looking directly at the camera with a serious expression. The background is a blurred green forest. The title text is overlaid on the image.

DIVORCE FINANCIAL PLANNING

HELPING CLIENTS TO AVOID THE FINANCIAL PITFALLS OF DIVORCE

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Goal for today: Provide advisors with tools to reduce client anxiety and spot issues that may cause problems down the road.

“If you can’t be a good example, you’ll just have to be a horrible warning.”

GENERAL CONCERNS

- Help clients to separate the emotion from the facts of the finances
- Educate
- Lend a hand

Divorce is an uphill battle, fought in language you don't understand, using money you can't spare, for a prize that's only half of what you had before.

Ginita Wall

Co-Founder of Second Saturday

TRIAGE

- Cash flow – somebody stopped the direct deposit, cleaned out the bank account
- Find an attorney – *problem solvers* versus *problem makers*
- Don't get ahead of yourself – what you want right now may change completely next week

DIVISION OF PROPERTY

- Marital – equitable (not always *equal*)
- Separate – requires burden of proof
- Commingling and tracing
- Debt
 - Financial misconduct
 - Lender vs creditor

SPOUSAL SUPPORT

- How much?
 - Not governed by statute, every judge unique
 - Modifiable vs non-modifiable
- Deductible IRA contributions based upon taxable alimony
- Property settlements are not taxable
- Estimated taxes
- Recapture and 6-month rule

CHILD SUPPORT

- How much?
 - Governed by statute but case by case over \$150k. Allows court to consider private schooling, vacations, other lifestyle expenses.
 - <https://ohiochildsupportcalculator.ohio.gov/home.html>
- Not taxable
- Not deductible

COLLEGE EXPENSES

- Court has no jurisdiction once child becomes an adult
- Negotiated terms can be documented
 - Pro: Enforceable
 - Con: What if circumstances change and you cannot afford?
- **MUST ADDRESS 529** plans and how funds are to be used
 - Can now be used before college
 - Disposition of remaining balance

HEALTH INSURANCE

For kids

- Common for one parent to insure children
- Split out-of-pocket equally

For ex-spouse

- COBRA
 - Eligibility
 - Month-end

LIFE INSURANCE

- Insure income streams or property settlements
- Recommend individual coverage
- Update beneficiary designations **AFTER** divorce so intentions are clear
 - Ohio statute revokes ex-spouse bene designation after divorce
 - <http://codes.ohio.gov/orc/5815.33>

TAX LAW CHANGES – TAX CUTS AND JOBS ACT

- No alimony deduction after December 31, 2018
 - Renegotiated agreements subject to new rules?
- Exemptions DO matter
 - Children under age 17
 - Children who will be dependents in 2026 or later
- Prenups – do over?

INCOME TAX ISSUES

- Filing status
- Dependents - claim by decree, not custody/parenting time
 - (Dependent Care Credit based on “more nights”)
- Exclusion of gain on sale of residence
- Changes in student loan repayment plans
- Cost basis of divided accounts

SOCIAL SECURITY

- Married at least 10 years, currently unmarried, age 62 or older
- Doesn't impact ex-spouse's benefit (no matter how many ex's are claiming)
- Other spouse does not have to be receiving benefits
- Other spouse doesn't even have to be alive

? Your benefit as a divorced spouse is equal to one-half of your ex-spouse's full retirement amount (or disability benefit) if you start receiving benefits at your **full retirement age**. The benefits do not include any **delayed retirement credits** your ex-spouse may receive.

<https://www.ssa.gov/planners/retire/divspouse.html>

PENSION AND RETIREMENT PLANS

- Division of Roth basis – proportionate basis
- Dividing 401(k) with Roth/after-tax \$\$ - plan specific
- Update beneficiary designations **AFTER** divorce so intentions are clear
 - Ohio statute revokes ex-spouse bene designation after divorce (IRAs)
 - Conflict among higher courts in regards to ex-spouse benes of ERISA plans

QUALIFIED DOMESTIC RELATIONS ORDERS (QDRO) AND DIVISION OF PROPERTY ORDERS (DOPO)

- QDRO used for private plans governed by ERISA – provides only known exception to anti-alienation condition
- DOPO for state plans – exempt from ERISA, not required to accept QDRO
- Division of IRAs – QDRO not required, separate court order is advisable
 - Transfer by custodian

QUALIFIED DOMESTIC RELATIONS ORDERS AND DIVISION OF PROPERTY ORDERS

- Don't drag feet
- One vs multiple
- Distributions w/o 10% penalty (still taxable, 20% mandatory w/h)
- Pro rata
- Market experience

QUALIFIED DOMESTIC RELATIONS ORDERS AND DIVISION OF PROPERTY ORDERS

- Pensions - separate interest vs shared payment
 - Must use shared payment if in pay status
- Separate interest
 - May elect alternate retirement date (must be on/after participants' earliest retirement date)
 - Based upon his/her own life expectancy
 - May choose among available benefit options
 - Could elect survivor coverage for new spouse if remarried
- Shared interest – share in participant's benefit
 - NOTE: DOPO does not assign survivor benefits. Decree must state that participant shall elect JSA.

QUESTIONS?
