FOUR WAYS THE TCJA CHANGES LIFE FOR DIVORCED COUPLES

Whether you were divorced many years ago or are just starting the process today, the Tax Cuts and Jobs Act (TJCA) brings some drastic changes that may upset some people.

It's extremely rare that the divorce process will be a smooth one and that's why it's important to keep up-to-date with all the latest divorce tricks and trends as well as the many nuances in tax legislation impacting divorces. Whether you were divorced many years ago or are just starting the process today, the Tax Cuts and Jobs Act (TCJA) contains some drastic changes that may affect your situation. Here are four changes you should familiarize yourself with.

ALIMONY IS NO LONGER DEDUCTIBLE

Since 1942, alimony has been deductible for the paying spouse and taxable to the receiving spouse. But no longer.

Now, one of the biggest TCJA changes is that for all divorces finalized on or after January 1, 2019, the individual responsible for paying alimony can no longer claim the payments as a tax deduction. The new tax law also states that those individuals receiving the alimony payments will no longer be required to report the alimony as income. This change was made because, according to data from the IRS, many ex-spouses were over-reporting the alimony they paid to get a greater deduction while other were under-reporting the alimony they received to decrease their taxable income.

Although not being taxed on alimony may sound like it could be beneficial to the recipient, it could actually have the opposite effect. The paying spouse's contribution might be lessened due to the new tax burden imposed on them. This in turn could reduce their potential contribution, which would lead to the lower-earning spouse receiving less in alimony.

We all know that substantial changes occur after a divorce and can affect an individual's income and living expenses. During a divorce, some couples are in need to financial assistance. For instance, a separated couple's cost of living often increases as they must now individually pay costs that were previously split. According to the Divorce Revolution, a typical ex-wife endures a 73% reduction in her standard of living after divorce while the typical ex-husband enjoys a 42% increase in his standard of living. A wise move would be to assess your financial needs, tax consequences because of the divorce, changes in asset ownership, and fluctuation in income and expenses, and then readjust your goals accordingly.

DIVISION OF INVESTMENTS AND ASSETS JUST GOT TRICKIER

As the changes to the taxation of alimony come into effect, divorcing couples needs to plan accordingly. The person receiving alimony is typically in a lower tax bracket after divorce, which may be beneficial in terms of dividing investments. For example, you could possibly qualify for a 0% tax rate on capital gains if your income is below $38,600 as a single filer. In this situation, it typically makes more sense to receive investment assets in your divorce settlement.

Additionally, a spouse in the lower tax bracket should also consider converting their traditional retirement assets to a Roth IRA after the divorce. This would translate to future tax-free income, giving you more safety, security and independence in your later years. Finally, the lower-earning spouse should consider a property settlement in lieu of child support or alimony, as over one third of these payments are not fully made and now child support is no longer receiving tax preferential treatment.

RECONSIDER KEEPING THE HOME

The new tax law limits state and property tax deductions. The new State and Local Tax (SALT) cap is $10,000 per return. However, this might help single filers as the $10,000 SALT limitation is per return; couples filing jointly are forced to split the $10,000 deduction. States where property taxes are higher, like New Jersey, California and Connecticut, are going to be hit hardest by this.

5 STAGES OF GRIEF IN A DIVORCE	
Denial	You might think that your divorce won't happen but this could drag the process out.
Anger	The anger stage is usually when people call a divorce attorney because suddenly it seems important to be "right" or to "win".
Bargaining	You may feel like you would do anything to make the pain go away but you should not lose touch with what is really important - your happiness.
Depression	You may feel lonely and sad. When facing depression, don't face it alone. Make sure you have someone who will listen and help you.
Acceptance	This is when you realize that divorce is the "new" normal for you. You will begin to have good days and learn how to live as a divorced person.

This all means that keeping the house during a divorce is looking much more undesirable than it ever has before. Whereas in the past, the spouse who got the kids typically also wanted the home, these new tax changes could make taking ownership of that home less appealing. Instead, a spouse should consider receiving their ex's IRA, for example, because the house is now more likely to be more costly and also worth less than the retirement plan in the long run. Other ways to help reduce the impact of the new SALT cap: divorcing couples could consider selling their marital home, downsizing, relocation to a more tax-friendly state, renting, or even taking a reverse mortgage for those who are 62 or older. This could help improve cash flow and relieve some of the tax consequences of owning an expensive home (if it isn't feasible).

RECHECK THAT PRENUP

The new tax law changes may make a formerly equitable prenup lopsided, and valuations of assets could be different now. Typically, prenuptial agreements contain text calculating alimony payments based on years of marriage and a clause stating that one spouse can deduct those alimony payments from their taxable income. However, come 2019 and the implementation of the new tax laws, these provisions might not go as intended. Due to increased doubt and uncertainty surrounding this issue, it might be smart for couples to take another look at their prenups now and possibly renegotiate the terms.

In addition, assets that were once highly valued (like the marital home, for example) could now be more of a burden than a boon in divorce. On the other hand, the ne tax law may increase the cash flow of certain pass-through entities, meaning that the valuations of private businesses

could increase anywhere from hundreds of thousands to millions of dollars! That is, businesses where the taxes on the earnings are paid by the owner, not the company, will increase in value because of the new laws.

Valuation experts should be consulted to determine the exact change in the business' value, as it can have sweeping effects on the other numbers being settled in a prenup or during a divorce. So, although the exact change in valuation of these businesses won't be known until the owner files taxes next year, it's sure to complicate any prenup made prior to the law and certainly any divorce proceeding.

CHILD TAX PROVISIONS ARE THE SILVER LINING

The TCJA has done away with personal exemption deductions until the year 2025. However, the previously existing deductions have been replaced with a child tax credit, potentially reducing the parental tax burden. As a result, just as divorcing couples would negotiate who keeps the exemptions for the children, it is still extremely important to decide which parent will be able to claim the child for the tax credit.

The child tax credit is certainly a silver lining. Whereas this credit was previously $1,000 per qualifying child age 17 or younger, the new tax provisions have shifted this upward to a child tax credit of $2,000 per qualifying child. The new tax laws also allow a $500 credit for non-qualifying dependents who are claimed, such as elderly parents and college-aged children.

In addition, the income phase-out rules have been changed for the child tax credit. The previous income phase-out was $75,000 for individuals and $110,000 for married couples. The new income thresholds are $200,000 for individuals and $400,000 for married couples, and that's just where the phaseout begins. This is a dollar-for-dollar tax credit and is refundable up to $1,400, which is a very beneficial tax saving for parents.

REFORM OF 529 PLANS

There has also been significant reform to 529 college savings plans, which are now permitted to pay up to $10,000 per student, per year for private elementary and secondary school expenses. This new benefit covers public, private and religious schools. Another significant change to 529 plans is that they are now allowed to be rolled over to 529ABLE accounts without penalty as long as the beneficiary remains the same or is a family member of the original 529 plan owner.

WHAT'S NEXT

Strategic financial planning can help you stay on track for retirement despite the significant changes brought on by a divorce. It is crucial to find ways to improve cash flow, consider tax consequences and realign your savings goals. It's important for you to discuss any strategies you are considering BEFORE enacting on them, so we can help ensure your financial well-being won't be negatively impacted. We can help determine what solutions will best fit your needs.

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