

New York Divorce and Family Law Blog

10 Tips to Divorce Proof Your Business

By Daniel Clement on August 18, 2011

For those whose marriage is in trouble or who are about to begin a divorce, a few strategies can help preserve a business. Once the divorce proceedings start, entrepreneurs won't likely be able to implement some other legal maneuvers that, if accomplished in happier times, could keep their business from landing in a soon-to-be ex's possession.

[Entrepreneur.com](#) offers a guide to divorce proof your business:

1. Maintain good records, and keep the family's finances separate from those of the business.

2. Pay yourself a good salary.

3. Fire your spouse.

The more prominent the ex's role and the longer he or she worked in the business, the stronger the case a lawyer could make that this spouse helped build the enterprise and should profit from its growth.

4. Sacrifice other assets.

Try to retain 100 percent ownership of the business by forfeiting other assets instead, such as retirement accounts, the family's home, vehicles or collectibles.

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5. Get a fair valuation.

6. Arrange to make any payments over time.

A buy-out of the spouse's interest can be made over time instead of a lump sum payment.

7. Raise capital by selling a stake.

8. Sign a pre-nup or a post nup

You and your spouse can "agree" that your business is your separate assets and will not be subject to equitable distribution if the marriage ends in divorce.

9. Place the business in a trust.

This keeps the business from being counted as a marital asset as you no longer personally own it..

10. Create a buy-sell agreement.

A buy-sell agreement defines what happens to a business should any owner's status change, as is the case in a divorce.