



LUCIBELLO & PROSCINO, LLP

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Tax Considerations When Facing Divorce

In the midst of tax season, this is a very relevant discussion. However, if you are contemplating getting a divorce in Connecticut, or are already involved in divorce proceedings, the tax consequences of divorce are probably one of the last things on your mind. With all of the emotions involved in a divorce, it is easy to understand why this is. Still, tax planning is a crucial financial consideration. If you are facing a divorce in Connecticut, it is important that you understand the tax considerations and consequences so that you are best equipped with the necessary knowledge to make the right financial decisions for yourself.

Depending on your specific case, some of these tax considerations may include:

1. Whether Tax Returns Should Be Filed Married or Single:

If you were married for the prior tax year, and it is time to file taxes, the filing status you can choose depends partly on your marital status from the last day of your tax year. If you were still married as of December 31st, you can file that prior year's taxes as either 'Married Filing Jointly,' or 'Married Filing Separately.'

2. If a Tax Return is Filed 'Married Filing Separately,' Who Gets To Claim What Deductions:

If you file as 'Married Filing Separately,' you should each report only your own income, exemptions, deductions, and credits on your individual return. Additionally, if one of you itemizes deductions, the other cannot use the standard deduction and should also itemize deductions. You will need to determine who is able to claim an Exemption for a Dependent. You will also need to determine who, if anyone, will be able to claim medical expenses, state income tax, property tax, mortgage interest, and casualty loss. Your attorney can explain to you what itemized deductions may be available to you.

3. What Types of Financial Awards in a Divorce Settlement or Court Order are Considered Income and Thus Taxable:

If maintenance of a spouse (otherwise known as 'alimony') under a divorce or separation agreement is awarded, this is taxable income. The payor (i.e. the spouse making the payments) is able to claim this payment as a deduction if certain IRS mandated criteria is met. The payee (i.e. the spouse receiving the payments) must report this income. Alimony is treated different from other financial awards. Maintenance of the children (or, 'child support') is not taxable income. Neither is property that is transferred in a divorce decree. Keep in mind that while assets transferred as part of a divorce are not considered income, and no income tax due on these distributions, there may potentially be capital gains taxes on the transfer of the marital residence.

Attorney Emily Lucibello and Attorney Lisamaria Proscino, authors of this article, are partners at Lucibello & Proscino, LLP. The information contained in this article is not, nor is it intended to be, legal advice. As a reminder, every case is unique and the above-referenced considerations are only a very basic and general introduction to the tax considerations inherent in a family law or other situation, and may or may not be applicable in any given situation. You should consult with a qualified attorney, and accountant, and review all applicable state and federal law. Lucibello & Proscino, LLP invites you to contact our office and welcomes your calls, letters, and electronic mail. Contacting us does not create an attorney-client relationship. Only when an attorney-client relationship has been formed, will Lucibello & Proscino, LLP advise you as to your particular case.

