

FINDING HIDDEN ASSETS IN DIVORCE: *Searching for Clues in Taxes, Investment Accounts, Paychecks, and Business Records*

By Scott David Stewart

Every divorce and legal separation in Arizona requires the division of assets. With some couples, that process of division can be complex and contentious. Adding to that tension is the unfortunate reality that some individuals will attempt to conceal assets from their spouses.

Hiding assets in anticipation of divorce.

Although it is unwise and can seriously undermine a party's case when discovered, many a divorcing spouse makes it a point to try to hide assets. More often than not, this secreting away of property will be attempted before the petition for dissolution is filed, in anticipation of a divorce. Experience has shown that the more time a spouse has before the petition is filed, the more likely he or she is to conceal assets from the other spouse.

When what you find is the decoy.

If hidden assets are found easily, then they could be a mere decoy for the greater amount hidden more carefully. Many a divorce attorney has observed a party, sometimes their own client, using a decoy to divert attention from the more valuable concealed asset. Experienced divorce lawyers watch for any evidentiary clues to hidden assets.

Here's an example: The decoy is a local bank account opened by one spouse and funded with marital assets, but not a lot of money. The account is easily discovered by the other spouse who, having found the treasure, stops looking for more clues. Meanwhile, the main hidden asset is a well-funded offshore account under a different name. If the other spouse stops looking for clues, then it's unlikely that he or she will simply stumble upon the concealed offshore account.

SEARCHING FOR CLUES TO HIDDEN ASSETS

We're talking about discovering assets that one spouse concealed to avoid division in a divorce or legal separation. If there is any suspicion that a spouse may have hidden away assets, then the sleuthing begins. Here are four tips on where and how to search for clues to hidden assets in financial records.

Tip #1: Search for clues in tax returns.

Tip #2: Search for clues in bank and investment accounts.

Tip #3: Search for clues in paychecks.

Tip #4: Search for clues in business records.

Tip #1: Search for Clues in Tax Returns.

As part of the mandatory disclosures in every divorce, a party has to complete discovery and list all of the couple's assets. The investigating spouse should closely examine the income tax returns for the last five years.

Study the interest income schedules in the tax returns. Compare the itemized accounts listed on the tax return, with the accounts listed by your spouse. *Are they the same?*

Compare the real estate taxes and mortgage interest in the tax returns, with the real estate details provided by your spouse. *Are they the same?*

Determine whether there was any overpayment of taxes which must be refunded to the taxpayer, possibly after the divorce is finalized. *Will there be a tax refund?*

Tip #2: Search for Clues in Bank and Investment Accounts.

An investigating spouse should obtain copies of all bank, credit card, and investment account statements going back five years.

Examine each statement carefully. Look for any large transfers or withdrawals. A pattern of regular transfers of small amounts may also indicate concealment, so don't ignore those. *How much and how often was money transferred? Where and for what purpose was the money spent?*

A spouse may try to hide cash and, on some occasions, may use the pretense of a debt when none exists. He or she may transfer money to a friend or family member for the purpose of collecting it later, after the divorce. *Was a payment made to a friend or family member on a so-called debt?*

Look for any custodial account statements in the names of your children or stepchildren. A custodial account could be used as a mere repository for your spouse to make deposits, taking the money out after the divorce. *Is there a custodial account that you were previously unaware of?*

Pay very close attention to ATM withdrawals. *Do the withdrawals reflect normal spending patterns? What was the money used for?*

When reviewing credit card statements, look for payments for accommodations and travel expenses. *Are there charges for housing expenses outside the marital home, such as rental payments? Is there any charge that was extraordinary or unusual?*

Tip #3: Search for Clues in Paychecks.

You are entitled to request payment records from your spouse's employer. The investigating spouse should examine the paychecks carefully for any deferred bonuses, options, or wages.

What if earnings are deferred until after the divorce, but the wages were earned during the marriage? Any such delays in paying what is owed could be evidence of collusion between the employer and your spouse. A payment deferred until after the divorce would appear to be that spouse's separate property, unless it is traced back to the community as earned during the marriage. *Is the employer holding back any earnings or bonuses to be paid after the divorce? Is a promotion or a pay raise being stalled until after the divorce?*

When a spouse is paid in cash, or partly in cash, tracking earnings may be much more difficult. The investigating spouse should look for changes in the pattern of earnings established during the marriage. *Is the spouse working the same number of hours, with a significant reduction in stated earnings?*

When a spouse has cash income, one way to establish whether there are hidden assets is to perform an in-depth lifestyle audit. The lifestyle audit involves comparing the spouse's stated income, to the amount of money he or she actually spends. If the spouse's expenditures are unreasonably high given his or her stated earnings, then it may be evidence that assets have been concealed. *Are the spouse's spending habits excessive when compared to his or her stated earnings?*

Tip #4: Search for Clues in Business records.

Owning a business may make it easier for a divorcing spouse to hide assets. In some cases, a business evaluator, typically a forensic accountant, may be necessary to thoroughly investigate the business records for possible concealment practices.

Wages may have been paid to family members or friends for work they did not actually perform – with the intent of returning the money to the concealing spouse after the divorce. *Were wages paid to family members or friends for work they didn't do?*

Investments can be written off as business expenses, and expenses can be inflated to reduce income. *Is the business being restrained to look less profitable? Was business equipment purchased for much more than market value? Are the business' expenses excessive when compared to the actual cost of operation?*

Divorce for many couples, perhaps most, is an emotionally challenging process. If one spouse attempts to hide assets from the other, the divorce is made that much more difficult. When concealment of assets is suspected, gather and photocopy all financial records before a petition for dissolution is filed. And if you haven't yet separated, consider safe keeping those records in a secure location outside the home where they can be retrieved later.