

# Divorce Checklist

By Campbell Rodriguez

- Personal Information to be Gathered
  - Each spouse's name, date of birth, and Social Security number
  - Names and birth dates of children
  - Date and place of marriage and length of time in present state
  - Information about prior marriages and children
  - Date of separation and grounds for divorce
  - Current occupation of spouses and name/address of employers
  - Education and degrees of each spouse
  - Name, address, and telephone number of divorce attorney
- Assessing Financial Situation
  - Income of each spouse
  - Expenses of each spouse
  - Assets of the spouses (joint and separate)
  - Liabilities of each spouse
  - Employee benefits each spouse is entitled to
  - Life, health, and disability insurance policies owned by each spouse
  - Credit reports
- Property Settlements
  - Does prenuptial agreement exist?
  - Do spouses reside in a community property state?
  - Have all assets been listed, valued, and classified as joint or separate?
  - Have the tax bases of all assets been determined?
  - If assets will be transferred or sold, have tax consequences been calculated and explained to client?
  - Have loans and other liabilities on the properties (or otherwise) been listed and considered?
  - Is there a family business?
- Alimony and Child Support
  - Have tax consequences of classifying support as alimony or child support been reviewed?
  - Has physical custody of children been determined?

- Has legal custody of children been determined?
- Have visitation parameters been established for the noncustodial parent?
- Has it been decided which spouse will get dependency exemption?
- Will alimony be paid?
- Marital Home
  - Will home be transferred to either spouse as part of settlement? If yes, has cost basis been reviewed for improvements?
  - Has amount of outstanding mortgage been calculated?
  - Will the principal residence be sold to a third party? If yes, has the tax cost (if any) been computed?
- Retirement Planning
  - Have retirement plans been listed and interests in retirement plans been reviewed?
  - Will the divorce decree provide a payout from the plan? If so, will a qualified domestic relations order (QDRO) be used?
  - Should beneficiary designations be changed?
  - Will any IRS penalties apply?
- Tax Planning
  - If already divorced, was divorce finalized by year-end?
  - If still married at year-end, agree to file jointly?
  - Have joint filing risks been discussed?
  - Has separate maintenance decree been obtained to permit filing as unmarried or head of household?
  - Have head of household conditions been met?
  - Who will claim the dependent child exemption?
  - Who should claim for the largest financial benefit?
- Other
  - Should will and trust be changed?
  - Should insurance policy beneficiaries be changed?
  - Should banks and other creditors be notified of divorce and signatures changed?
  - Will either spouse's health insurance plan cover the children post-divorce? Cover spouse?

- Has budget been revised to account for changes in income and liabilities?
- Does credit need to be repaired or established?
- DO List
  - Make sure you have a good/current inventory of all property, owned separately or jointly in the marriage.
  - Make sure you know where all of your cash or other liquid assets are prior to filing; consult with your attorney about protecting these assets during the divorce proceedings.
  - Make sure you know all of your current debt [credit cards] balances before sitting down with an attorney. (Now's the time to make a list!)
  - Make sure [once a lawsuit has been filed] that all credit cards are turned off [to prevent the other spouse from running them up after the legal "bomb" is dropped] Most credit card companies will open new cards for either/both spouses...but check with the credit card company first before you pull the plug.
  - Make sure you keep contacts with your attorney [or his assistants] as brief as possible Don't skimp, but make every call/conversation count. You might want to make a list of questions and fax these to your attorney; this way you'll have time to make sure all of your questions are clear and it'll help you avoid multiple calls.
- DON'T List
  - Clean out all of your bank accounts and "hide the money" without getting proper direction from your attorney.
  - Let the emotions of the legal turmoil force you into making multiple calls to your attorney or their assistant; you'll pay the price when you get your bill at the end of the month!
  - Expect to be able to correspond with your attorney or their assistants via e-mail; most lawyers agree it's extremely unsafe to use this method for exchanging attorney-client privileged information.
  - Agree (either verbally or in writing) to ANYTHING without getting your attorney's approval, first and always! You've hired an attorney to protect your interests ..so let them do their job!
  - Agree to any sort of settlement without making sure that you are off any and all liabilities, or potential liabilities This means NO DEAL unless and until you're released from all joint obligations, such as mortgages, credit cards and auto leases/loans. You must first be released either through re-financing or retirement of the debts prior to signing the final agreement. Otherwise, you could be haunted for years to come by your soon-to-be-ex-spouse.