

# Navigating Tax Issues in Divorce: What You Need to Know

## Executive Summary

Divorce is not just an emotional and legal breakup — it also has complex tax consequences. In this brief guide, we highlight the key tax issues clients must consider, steps advisors should take, and how you can provide value during a financially vulnerable period.

## Key Tax Issues During Divorce

- **Filing Status & Timing**
    - During the year of divorce, the spouse status on December 31 determines filing status (married filing jointly, married filing separately, or single).
  - **Allocation of Income & Deductions**
    - Wages, self-employment income, investment gains, and deductions must be allocated appropriately based on agreements or court orders.
  - **Alimony / Spousal Support**
    - For divorces finalized before 2019, alimony is deductible by the payer and taxable to the recipient. For those after 2018, alimony is no longer deductible for payer nor taxable to recipient.
  - **Child Support & Dependents**
    - Child support is non-deductible and non-taxable. Custodial parent usually claims child-related tax benefits (credits, exemptions) unless otherwise agreed.
  - **Property Division & Basis Issues**
    - Transfers of property between spouses incident to divorce typically avoid gain recognition at the time, but the recipient inherits the transferor's basis — critical for future gain calculations.
  - **Retirement Accounts & IRAs**
    - Splitting retirement assets (e.g. 401(k), IRA) generally requires a Qualified Domestic Relations Order (QDRO) to avoid penalties and adverse tax consequences.
  - **State & Local Tax Considerations**
    - State-specific rules may govern deductions, property transfers, and apportionment of tax attributes.
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## Advisor's Roadmap

### 1. Engage Early

- a. Get involved during negotiation of settlements to shape tax-efficient terms.

### 2. Model Scenarios

- a. Project post-divorce tax liabilities under different allocation or support structures.

### 3. Ensure Proper Documentation

- a. Use QDROs for retirement splits, written agreements for allocation of deductions, and formal orders for transfers.

### 4. Review Future Impacts

- a. Analyze how decisions affect long-term tax burdens: capital gains, estate planning, and retirement withdrawals.

### 5. Communicate Clearly

- a. Explain tradeoffs in plain language – e.g., “You waive this deduction now in exchange for lower taxable income later.”

## Key Takeaway

By methodically identifying, reconstructing, filing, and negotiating relief, you can help clients navigate tax exposure, reduce pain, and reestablish compliance.

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