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CPAs Provide Benefit to Attorneys in Divorce Cases

Experienced CPAs prove valuable to divorce attorneys in multiple ways. Attorneys can leverage a CPA's expertise in tax law, business valuation, accounting and forensic accounting to secure the most advantageous result for their clients.

Tax Issues

By involving a CPA in the settlement process, the parties can avoid making the taxing authorities a beneficiary of the divorce.

CPAs can educate the attorney on the tax consequences of various components of a divorce agreement. For example, alimony is generally taxable to the recipient and deductible by the payor, while child support isn't; a CPA can help the attorney achieve a balance between the two types of payments.

CPAs also are familiar with the tax attributes related to certain assets, such as retirement plans and personal residences, and thus can assist in determining a fair allocation of those assets. Similarly, they can take into account the tax effect of low-basis assets to ensure a fair allocation.

Disputes often arise over the proper handling of stocks and stock options. CPAs can advise on stock redemption in closely held corporations in which both spouses had stock — the approach taken will determine who's required to pay taxes on the stock. The tax consequences of transferring employee stock options between spouses should also be considered.

Attorneys should consult CPAs on the application of Internal Revenue Code Section 1041 to their divorce cases. The section generally provides that transfers of property between spouses or incident to divorce are nontaxable, but certain exceptions exist. A CPA can recognize whether any of the exceptions apply.

CPAs play valuable roles in cases involving the underreporting of income or overreporting of deductions by one spouse on joint tax returns. Because joint and several liability applies in these cases, the CPA can suggest the appropriate language to include in the divorce agreement to ensure indemnification of the innocent spouse.

A CPA can also determine if the rules for equitable relief from the IRS apply, so that, even if the spouse had knowledge of, for instance, her new husband's existing tax liability, she isn't charged for the entire amount.

Business Valuations

Many CPAs have extensive experience and credentials in valuing closely held businesses, and much of their divorce work is in this area — when marital assets are subject to distribution, all of them must be valued, including businesses.

CPAs also provide expert witness testimony on the subject.

Forensic Accounting

A CPA's special training and skills in accounting and forensic accounting can prove

useful in other ways during the discovery and trial stages of a divorce case. A CPA can trace assets, search for hidden assets and distinguish between marital and nonmarital property.

CPAs also are invaluable in reviewing financial records and helping the attorney determine the documents he or she needs to obtain from the opposing spouse to put together an accurate picture of that spouse's financial situation.

To obtain the greatest benefit from a CPA in a divorce case, attorneys are advised to involve the CPA as early in the process as possible.



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