The Guide to Making Financial Agreements in Divorce

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•*The Guide to Parenting Plans and Child Support in Divorce*

•*The Guide to Divorce Preparation*

•*The Definitive Sourcebook of Family Law Separation Agreement Clauses*

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WHY I WROTE THIS BOOK

Are you overwhelmed and confused by the magnitude of financial information you need to gather so you can create a Separation Agreement? Many people worry that they will not understand their financial situation correctly in divorce and that they will make bad decisions as a result.

Finding information that is comprehensive, easy to understand and systematic when it comes to divorce financials is exceedingly difficult. People spend thousands and thousands of dollars on retaining legal professionals because they cannot access the information that will calm their fears, bring order to the chaos and help them to feel empowered. It is not that Family Law is difficult to understand. The difficulty lies in accessing what you need to know without paying exorbitant fees to the gatekeepers.

I wrote this book so that you can get totally prepared to create your own financial agreements for your separation or divorce. Imagine attending your first joint mediation session with clarity around what you need financially and knowing *exactly* how to articulate those needs in the context of Family Law. By the time you have worked your way through the material in this guide, you will be that empowered!

Truly, I cannot tell you how many times I have new clients show up with lawyer-written Agreements that are missing all kinds of important clauses. My remedial tasks become very complicated and frustrating in these situations because the parties are often experiencing completely avoidable conflicts - if only their Agreements had been written correctly the first time around!

So, there you have it! This book is a tool of empowerment and will bring clarity to your process. All the best as you journey through this difficult time. If you take the time to do this well, you will have a sound foundation for building your future on.

HOW TO USE THIS BOOK

Each chapter of this book discusses a particular topic you should consider in the financial and property agreements you will make with your ex. There is comprehensive information about the topics in each chapter and ‘workarounds’ or tips that I have learned over the years by helping hundreds of people just like you.

At the end of the chapter is a list of questions that you should answer in a notebook or copy and paste into an editor and print off. You can also take screen shots of these workbook pages and use those to work from. This information will form the foundation of the Property and Financial sections of your Separation Agreement. You will also find helpful links listed under the “Resources” heading of the workbook section in each chapter.

FULL FINANCIAL DISCLOSURE

As you are putting a Separation Agreement together, it is vitally important that each party reveals all their financial information to the other. This is called "full financial disclosure". In the terms of your Agreement it should be acknowledged that each party is satisfied that the other has provided full financial disclosure.

I have worked with clients that choose not to reveal certain information to the other party, such as a balance on a credit card that is exclusively in their name, but they have also stated in their Agreement that they will be taking 100% responsibility for that debt and that it will not be included in the equalization calculation.

This type of an arrangement can be an exception to the rule of full financial disclosure as long as both parties agree and it is stated somewhere in the Agreement that they acknowledge that this information has been left out and they are ok with it.

Nonetheless, it is prudent to be as scrupulous as possible with your full financial disclosure.

Chapter 1

A BUDGET WILL HELP YOU PLAN

The word ‘budget’ makes eyes roll. I know. Most of us have had the luxury of living with enough discretionary income that we can get away without budgeting and not sabotage ourselves financially. In the context of divorce though, creating a budget that compares your future financial situation to your present scenario can be eye-opening. It can also mitigate some big mistakes.

For instance, knowing you will have a shortfall of income in your first year after divorce may help you negotiate your agreements differently. You may need to consider getting a different job or taking opportunities to climb the ladder where you are currently employed. Maybe you will start a side-hustle. You might even consider asking for spousal support for a finite period while you get on your feet financially.

I have seen it time and again; a client comes in to see me, overwhelmed and not knowing how they are ever going to make it after the divorce. Once we work through the budget and isolate the problem areas, we can come up with some savvy solutions that would have been completely missed without working up a budget.

All this to say that knowing your budget now and in the future is an essential piece of your agreement-making process. Use the budget workbook pages of this chapter so you can easily follow along as we unravel your potential financial needs in your post-divorce life. While we work through all the areas of the budget together, I am going to be giving you information and tips on how to figure out most of these expenses.

It is important that you work out your projected **future** budget because it will help you to know what you can afford in new accommodations (like rent or a mortgage), what you might qualify for in government benefits, how you will split shared expenses until you and your ex physically separate into different homes or what considerations you might like to bring into agreement negotiations around spousal support and equalization payments.

Home Related Expenses

Now we are working through the Budget Worksheets that you can find in the Workbook Section of this chapter. The first category is Home Related Expenses. The most important part in these columns is your mortgage or your rental fees. Whatever you are currently paying in monthly mortgage fees is straightforward. If your property taxes are not included in that number, you can add them to the 'other' row.

If you plan to sell your home and purchase a new property or buy out your ex's half of the marital home, your monthly mortgage payment is going to change. For now, you will have to estimate what this number will be. There are numerous online mortgage calculators that you can use to at least get an idea of what you might qualify for. Just remember, these calculators are for estimates only.

You must make an appointment with a mortgage specialist to get a solid value of what you qualify for in a potential new mortgage. This is the *only* value you should use while seriously considering your options for buying out the other party or purchasing a new home post-divorce. If you negotiate a buyout off a guess and then sign the Separation Agreement only to find out that you actually cannot afford to buy out your ex, you could get yourself into some legal trouble. A Separation Agreement is a *contract* and must be honored as one.

Alternatively, many people move into rental properties after they separate. This can be for short term or long term. Being a renter is a very different situation from being a homeowner. If this is you, do your research. Check Kijiji, Craigslist and with local realtors to find out what rental properties are currently going for and what the process of application is. Many rental applications are as comprehensive as applying for a mortgage these days and they may want all kinds of information; everything from proof of income to a credit report.

You need to have an idea of the type of rental you are interested in: is it an apartment, a condo, a townhouse or a detached house? You will also need to know whether a prospective property's monthly rent includes utilities such as water, electricity and natural gas or if there are other fees such as condo fees.

Next, you are going to need to consider how much money it costs to repair and maintain your current home. You can consider the total yearly value and divide that by 12 and then compare that to the maintenance costs for your proposed new accommodations.

Homeowners clearly have more of these costs, but renters can have maintenance and repair costs too, so be careful not to overlook these. For example, renters may need to pay for appliance repairs or painting the walls, while homeowners may need to make roof repairs or replace windows.

If you intend to remain a homeowner, remember that covering maintenance and repair fees from a single income may be challenging. Roof repairs and replacing shingles can easily cost $10,000

- $20,000 and plumbing repairs can be unexpected and astronomical. Do you have the savings or the credit to take care of expensive home repairs that may be non-optional?

It is ok to be a renter while working on increasing your income before buying another home. You might need to do this to prevent yourself from becoming 'house poor', which is where you are spending 30%-40% or more of your monthly income on mortgage payments, property taxes, maintenance and utilities etc.

If you are 'waiting it out' to increase your income before buying a new home, you may want to consider consulting with a financial planner to discover ways you can invest your equalization money for the short term and make some passive income.

Personal Expenses

In this section we will find things like phones and medical related expenses. In my experience, people often reconsider the mobile phone plan they are currently on because they need to find ways to reduce costs. This is one of the areas you can often save a few dollars. You can do it by either switching providers or renegotiating your current plan. The same thing goes for your internet and cable provider. A lot of people cut costs by getting rid of the cable and simply subscribing to internet streaming services instead.

Medical and dental expenses and related medication costs are relative to each individual's situation and you will have to see if there are any alternative, but safe, ways to make changes here.

Transportation Expenses

It is reasonable to expect that you will have a few expenses from at least some of the categories in this section. Some of my clients have changed jobs to work closer to home and save money on driving and insurance costs after they are separated. Even if a new job that is closer to home pays slightly less, this is typically balanced out by less travel costs and vehicle maintenance expenses. Also, the extra time that a person gets to spend with family and supportive friends by working closer to home can be a huge benefit while going through a divorce.

Some of the other ways I have seen clients save money in this department are to shop for cheaper insurance, switch to a car that has better fuel economy or work from home more, which saves commuting expenses and gives more time to be present with the kids.

There are many ways that people get creative with lowering their traveling expenses and perhaps you can come up with some ways that suit your situation.

Needs and Lifestyle

It is probably not a surprise that this is a category where a lot of people find they can make some changes and save a few bucks. Let’s talk about groceries to begin with.

In the first column, you are going to account for all the money you currently spend on groceries in your combined house and in the column beside it, you are going to calculate what groceries are going to cost in your new situation, taking into consideration that your children will be with you at certain times and with their other parent at other times.

This will reduce your monthly grocery bill, so thinking it through and taking a good guess at what this change will be is important. Remember, you can always come back and change these numbers as you learn more and understand more about the changes that will happen when you are living separated.

The category of clothing refers to yourself *only* and not the children (that comes later). Clothing is typically an expense that people find ways to cut back on if need be. Of course, there are certain things you cannot do without, but many individuals discover that they spend a lot of discretionary income on this category.

Toiletries are straightforward but will probably cost less when you are on your own.

Dining out is often a category that people find they can cut back on too. Maybe you can find some creative ways to eat in a little more often, but make it fun, especially with the kids. There are so many themes and celebrations that people can accommodate at home and save a lot of money while still enjoying time together with family and friends.

Subscribing to digital services is a too easy these days and many people make impulsive online purchases or treat themselves with the click of a button. However, these things can add up quickly. Taking stock is very important here. Some people are surprised to discover that they are spending more on this category than they realized. It might be time to reevaluate and make some changes here to save a bit of money.

If you have pets, they need care and these costs do not really change after separation. However, what may change is how these costs are shared. Pets are like children for many people, but nonetheless, they are seen as ‘property’ in the eyes of the law. This is a very personal thing, and each divorcing couple will need to figure out what is best for their pet’s situation.

The travel category is about personal travel for pleasure and adventure and not for work, family or routine life. This is a tough one because a lot of people have enjoyed the benefits of making exotic travel plans based on a double income. This usually changes when going through a divorce. Again, only you know what is best for your situation.

Many of my clients have discovered that traveling in their own neck of the woods has a lot of adventure and entertainment to offer. While it may take a bit of a mental adjustment, it can be pretty amazing...and you can save a lot of money!

Insurance

Insurance is important and not an area you want to save costs on if it means losing benefits that are important to you.

When you move out on your own, the amount of property you have is probably going to decrease. It is important to reevaluate your needs for contents insurance by taking an inventory of what it would cost to replace everything if you lost it all. At the same time, making a photographic record of your belongings would be a good idea, because most insurance companies will require some sort of proof if you ever need to make a claim.

If you are a renter, “tenant and contents” insurance will be what you need to have. If you are a homeowner, you are going to need mortgage, home and/or contents insurance. Make sure you have the right kind.

Life Insurance is important for most people to have. If you will be paying child support or spousal support in Canada, then you will be required to have it. If you live somewhere else, you will need to investigate the laws for your country, state or province.

Even if you are not a support payor, having life insurance is a good idea because if you were to pass away, the beneficiaries of your policy can use the money to help care for your children. You can also designate some of the money for helping your children pay for college or to buy a home of their own one day.

Term life insurance usually has low monthly premiums and can give you some peace of mind in this department. You will need to reach out to an insurance provider or broker to look into things if you do not currently have a policy.

Car insurance is something that may be able to be reduced by getting an insurance broker to investigate your options. All it requires is a phone call.

Pets Insurance is a personal thing and depending on your situation it can range from cheap to expensive. It is something you and possibly your ex will need to decide on for yourselves.

Job Related Expenses

For job related expenses, perhaps you need special clothing that is not covered by your company. Maybe there are certification renewals or annual dues that you need to pay. These expenses are not likely to change after you are separated unless you switch jobs.

Banking

As for bank fees, many divorcing people will need to open new bank accounts and this is a good opportunity to shop around and see if you can get a deal in lower fees.

Making changes around existing credit cards can be a little complicated and I will cover it more in Chapter 3 on debts, but there may be ways to reduce and possibly eliminate these costs all together.

Child Related Expenses

This section has been kept separate because, depending on whether the kids live with you *most* of the time or *some* of the time, you may see some drastic differences in these categories.

Being aware of these changes for your own situation will help you to plan for the ups and downs in monthly spending that are child related. If you are receiving child support, these categories will help you to see if you might need additional help with extra expenses. More information about child support and extra expenses will be contained in "*The Guide to Parenting Plans and Child Support in Divorce"* volume of this series, so make sure you purchase it if you have children.

First, we have childcare. When you get separated, your expenses may go up, down or stay the same in this category depending on the changes you might make. For example one parent may need daycare once you are separate and one may not. It is still considered a shared expense, however, and therefore it is so important to really think this through.

Entertainment with the kids is a personal thing and some parents can or choose to spend more on this than others. This may include eating meals out, going to movies and performances and traveling for pleasure etc. Entertainment is not typically a consideration when it comes to child support, so you are probably on your own in how you make decisions about this. If you have less money to spend, then you will need to make some lifestyle changes. Many parents find creative ways to have fun without needing to spend much money.

School trips, school fees and tutoring will typically be considered 'extra expenses' for your children. As such, they are expenses you and your ex will probably share in some way. More about extra expenses is covered in "*The Guide to Parenting Plans and Child Support in Divorce"* volume in this series.

Finally, clothing for the kids depends on your situation. Of course, your children need clothes no matter what. How these expenses are taken care of usually depends on your residency situation. Child support may be expected to cover most or all of this category if the children live primarily with one parent or it may be a shared expense if the kids spend time equally between parents.

Many families agree to have the children's clothes travel back and forth between residences, but some do not, so this is another consideration to be aware of.

Once you have this section all filled in, you can look at the totals to see what your projected monthly expenses will be for your children. Knowing these numbers is going to help you figure out what you might need to ask for or negotiate around when working through the Parenting aspect of your agreements.

Bringing It All Together

We are done figuring out what your estimated expenses are going to be and now it is time to look at your sources of income. Your net employment income is your take-home pay *after* taxes and deductions. It is the money that you get to keep and spend. If you get bonuses with your work, figure out what they amount to yearly (approximately) and then divide by 12 to get a monthly figure.

Government benefits can sometimes be calculated online depending on where you live. Doing an online search for 'government benefits calculator' along with your country, province or state's name should yield the results you are looking for.

Child Support and Spousal support can be figured out using online calculators in many countries. You can use a similar search strategy as I suggested with the benefits: 'calculate spousal support' or 'calculate alimony' and then the name of the country, state or province.

Remember, we are working with estimates here and additional information will be given in later chapters about how to figure out more accurate numbers for certain categories.

If you will be paying child support, you need to include that in the 'Other' category under **Kids**. And if you are paying spousal support, you can include it in the 'Other' category under **Personal Expenses.**

Finally, maybe you have investments that pay out dividends. You will need to figure out what that amounts to in a monthly value and include that in your income.

By working through this aspect of your budget, you are going to see the financial reality of the changes to your income. This is important, because the more knowledge you have about your finances *before* you start divorce negotiations, the more power and creativity you can engage to make changes and goals that will help you rebuild your life in meaningful ways.

You will notice that to begin with, we add up the expenses in all the sections *except* for the kids. This total is what it costs to run your home and personal life. Next, we add the kids' expenses in so that we can get the big picture of how much money you are going to need *in total* to make your finances work.

Last of all, we take the total income you expect to earn and subtract your total expenses and hopefully we have a positive number. Any left-over money is your 'discretionary income' and can be used to buy and do the things you want or it can be saved or invested.

If for some reason, you find that your expenses are too high (you have a negative number), then you will need to re-evaluate areas that you can cut back on and, in some cases, it may mean changing your prospective housing arrangement, getting a higher paying job, making other big changes or negotiating for more help in support.

While this can be a little shocking, it is better to know this at the beginning of your divorce process than to be surprised by it later. If you need to make some big changes, now is the time to access the help and insight of some of the people in your support circle and possibly paid professionals. Creativity can go a long way in making positive and unique changes, so do not forget to brainstorm constructive solutions.

Chapter 1 WORKBOOK SECTION

Budget Worksheet
Pre/Post - Divorce

This worksheet is designed to show you how your financial needs will change before and after divorce. This is important to know for several reasons. It will help you:

- Be realistic about the financial changes resulting from your divorce
- Understand any additional costs that arise from housing your kids
- Understand what your financial needs will be when you're on your own
- Negotiate Spousal Support and Equalization payments, if being considered
- Apply for mortgages or loans
- Get appropriate advice from a financial specialist

Instructions

1. Fill out all of the sections on the budget sheets, except the SUMMARY. Research or ask for help if you're not sure about some numbers. If more lines are required, improvise.
2. Once all sections are filled out and totaled, you are ready to fill out the SUMMARY. Here's an explaination of the SUMMARY:

'H' is the total of all expenses **EXCEPT** the kids

'I' is the total of all expenses **INCLUDING** the kids

SUMMARY		
A + B + C + D + E = H	H	H
F + H = I (Total Monthly Expenditure)	I	I
G - I = Net Disposable Income		

This is what's left after you've paid all necessary monthly expenses. Your disposable income can be saved or spent as you chose. BE WISE with this! Deciding in advance what to do with left-over income is a smart move.

Budget Worksheet Page 2
Pre/Post - Divorce

Monthly	$Pre Divorce	$Post Divorce
A. Home Related Expenses		
Mortgage		
Rent or Condo Fees		
Electricity		
Gas		
Water		
Maintenance		
Other		
Total		
C. Transport Expenses		
Fuel		
Tolls		
Public/Uber/Taxi		
Parking		
License/Registration		
Car Payment/Lease		
Maintenance		
Total		

Monthly	$Pre Divorce	$Post Divorce
B. Personal Expenses		
Home Phone		
Cell Phone		
Cable		
Internet		
Medical & Dental		
Medication		
Other		
Total		
D. Needs & Lifestyle		
Groceries		
Clothing		
Toiletries		
Dining Out		
Memberships/ Subscriptions		
Pets		
Travel		
Total		

Budget Worksheet Page 3
Pre/Post - Divorce

Monthly	$Pre Divorce	$Post Divorce
E. Insurance & Other		
Home/Contents Ins.		
Life Insurance		
Car Insurance		
Pet Insurance		
Job Related Expenses		
Bank Fees		
Credit Card Payments		
Total		
G. Income		
Net Employment Income		
Bonuses		
Government Benefits		
Child Support		
Spousal Support		
Dividends/Investments		
Other		
Total		

Monthly	$Pre Divorce	$Post Divorce
F. Kids		
Child Care		
Entertainment		
School Fees		
School Trips		
Tutoring		
Clothing		
Other		
Total		
SUMMARY		
A + B + C + D + E = H	H	H
F + H = I (Total Monthly Expenditure)	I	I
G - I = Net Disposable Income		

RESOURCES

FREE Online budgeting tools

Forbes Mortgage Calculator

Links for Canadians

Online Mortgage Calculator Canada

Canada Child and Family Benefits Calculator

B.C. Child Opportunity Calculator

Alberta Family and Child Benefit

Saskatchewan Financial Help

Saskatchewan Active Families Benefit

Manitoba Child Benefits

Ontario Child Benefit

Ontario Trillium Benefit

Quebec Family Allowance

New Brunswick Child and Family Benefits

Nova Scotia Family and Child Benefits

PEI Family and Child Benefits

Newfoundland and Labrador Family and Child Benefits

Nunavut Child Benefits

Northwest Territories Child Benefits

Yukon Child Benefits

Chapter 2

ASSETS

In this chapter, I am going to be talking about assets and what happens with them in a divorce. Before we get into discussing assets though, let's quickly review two very important pieces of information.

First of all, remember that full financial disclosure is essential when working out the financial issues in separation and divorce. This means that both parties *must* reveal and be honest with all information pertaining to any asset, debt, pension, bank account and property that either party owns.

Secondly, it is critical that the parties reveal the values of all assets, debts, pensions, bank accounts and property owned at the date of marriage and again, at the agreed date of separation.

Any assets or liabilities owned before the marriage are typically, but not always, considered the property of the person who owned them. However, once married, they become marital property. The Date of Marriage (DOM) and Date of Separation (DOS) are used to calculate the *increase in value* of assets and debts during the marriage and this will be used in the equalization, as agreed upon by the parties.

What Is An Asset?

For the purposes of divorcing couples, an asset is considered any money in bank accounts, investments, retirement funds and real property that the parties own individually or collectively during the marriage.

This can look like

- checking or savings accounts
- stocks and bonds
- mutual funds and equity funds
- any variety of retirement fund products such as RRSP's, LIRA's, 401k
- collections that have value
- tools
- jewelry

- anything else you can think of that is owned and has cash value over a set amount that the parties agree on (say, $1000).

Figuring out the value of some assets, like bank accounts is easy. However, many assets require that a party request a printed report from their work or that they retrieve an online statement. Some people pay a visit to their bank and request multiple statements for their various financial products.

In any case, the point is that the proper values must be discovered and reported when working out the details of your divorce financials. You can use the worksheet in the Workbook section of this chapter to list all of your assets, discover their net values for your separation and make important notes as you consider what to do with them.

It is important to understand that assets do not need to be divided to satisfy equalization when divorcing. In some cases, doing so will have unfortunate penalties or tax ramifications. It is both prudent and highly recommended that you take the time to understand all the implications of dividing, moving or cashing in assets.

Consider your assets to be puzzle pieces in the big picture of equalization. They can be moved around and fit together in different ways to discover an outcome that is mutually satisfying for both parties.

Sometimes people will have debts that they choose to resolve by liquidating an asset. Again, this can be a valid option if both parties agree. In many cases, parties are looking to move forward from their current situation with as little debt as possible, and this is one option for helping them to do so.

For many couples, one party will have overseen the handling of the finances and making decisions about how to manage them. The other party may feel like they are in the dark and do not really understand how all of this works.

If you feel this way, you can learn a lot by visiting a financial professional who can look through all of your marital finances once they are assembled, give you insightful information and make recommendations of ways to handle dividing them up with your ex-partner.

Another thing that I encourage my clients to do is to consider how the agreements they are making about assets right now will affect them at retirement time. For example, I have seen clients give all their retirement funds to the other party so that they can keep the house. Can you think of some ways this could impact that person's financial security when they are 70 years old, especially if they are 50 years old now?

I am trying to get you to think critically, which is a big ASSET to this whole process!

Chapter 2 WORKBOOK SECTION

RRSP's, Mutual Funds, RESP's, Stocks, Bonds

Name of Asset	#	Value D.O.M.	Value D.O.S.

Whole Life Insurance Policies

Insurance Provider: ____________________________

Policy Number: ____________________________

Cash Surrender Value at D.O.M. ____________________________

Cash Surrender Value at D.O.S. ____________________________

Jewellery Appraisals Over the Value of______________

Name of Item: ____________________________

Registration Number: ____________________________

Appraised Value: ____________________________

Major Tools Over the Value of____________

Name of Item: ________________________

Estimated Value: ________________________

Other Items Over the Value of____________

Name of Item: ________________________

Estimated Value: ________________________

Rewards Cards

Name of Program: ________________________

Number on Card: ________________________

Amount of Points D.O.M.: ________________________

Amount of Points D.O.S.: ________________________

Motor Vehicles

Vehicle 1

Make and Model and Year: ____________________________

Name on Ownership: ____________________________

Resale Value as of D.O.S. ____________________________

Remaining Loan $: ____________________________

Monthly Payment: ____________________________

Vehicle 2

Make and Model and Year: ____________________________

Name on Ownership: ____________________________

Resale Value as of D.O.S. ____________________________

Remaining Loan $: ____________________________

Monthly Payment: ____________________________

Chapter 3

DEBTS

Knowing exactly where you sit with your marital debt is important for making good decisions in your financial negotiations. In this chapter I am going to talk about how to figure out what debts you have and what you should consider as you move into your negotiations.

Debts can come in the form of bank loans, student loans, lines of credit, personal agreements between two sets of people and sometimes, money owed to the government for various reasons.

All debt accumulated during the marriage is marital debt. However, this is where issues of integrity and conscience come into place. I have had clients agree to take sole responsibility for a marital debt because it solely benefited them and not the other party during the marriage.

For example, I had a client who insisted on NOT including their student loan debt from a recently completed master's degree. The client said that they chose to do the degree for personal betterment and that it solely benefited them and not their ex. Therefore, their ex-spouse need not be responsible for that debt.

Another example that I see quite frequently is that one party begins purchasing furniture or other household items before their official separation date, knowing that they intended on getting separated. In good conscience, they agree to have the debt from those purchases assigned exclusively to themself.

Regardless of your debt situation, if you can find a way to pay the debt off in the financial section of your Separation Agreement, that will put both parties in the best financial position after the divorce. If that is not a possibility for your situation, then having a comprehensive idea of what your debt will be post-divorce is very important for making the best decisions possible.

We are going to walk through the debt section in the same way we did the assets. We will go through the debts in the same order as they appear in the workbook section of this chapter.

Remember that this book is for informational purposes only, and it is up to you to take responsibility for your own situation. Please consult a legal professional if you are unsure of your rights or need legal advice.

Credit Cards

Make sure you list whose name is on the credit card in your Agreement. If it is a joint card, you can list it as such. For personal credit cards, assess if this is a debt the card holder should take responsibility for in good conscience or if it is one to include in the joint marital debt.

Line of Credit

Many people use their Home Equity Lines of Credit to make major purchases and renovations. In most cases, a Line of Credit will need to be paid off through the sale of the matrimonial home or through the refinancing of a buyout. In any case, the details should be listed in your Agreement.

Loans

As mentioned, loans can come in many forms including student loans, bank loans and personal loans. It is important that you list who is the creditor and the amount left owing on the loan. Also, you should explain how you and your ex have agreed to handle the loan for the separation.

Sometimes people have loans that a family member or friend have worked out with them privately and these need to be acknowledged and accounted for in the terms of your Separation Agreement. In many cases, these loans were informal and not written. Regardless, list the total of the original loan and the remaining balance, to whom it is owed and the timeline and strategy that will be used to pay the loan off.

For example, John and Patricia were lent $15,000 from Patricia’s father, Len, to help them purchase a vehicle. Patricia and John have agreed that when they sell the house, they will pay Len back the remaining $7000 that they still owe him.

Debts can sometimes be more contentious to resolve in an Agreement than assets, because who wants to take responsibility for debt?! It is much nicer to get an asset. However, they must be dealt with properly and fairly, so take your time to think through how you are going to approach this.

Chapter 3 WORKBOOK SECTION

Credit Card Debt

Name of Card	Name on Card	Balance D.O.M	Balance D.O.S.

Line of credit

L.O.C Provider: ________________________

Balance D.O.M: ________________________

Balance D.O.S: ________________________

Monthly Payment: ________________________

Loans

Loan 1

Loan Provider: ________________________

Balance D.O.M: ________________________

Balance D.O.S: ________________________

Monthly Payment: ________________________

Loan 2

Loan Provider: ________________________

Balance D.O.M: ________________________

Balance D.O.S: ________________________

Monthly Payment: ________________________

Chapter 4

PENSIONS

Pensions come in different forms and we are going to go over the basics here. Dividing a pension can have some far-reaching consequences, so be sure to check with your policy provider about the rules and if necessary, hire a professional to look over your specific product and give you advice.

First of all, we are going to go over some different categories of pensions.

Canada Pension Plan

In Canada, most people who work have paid into the Canada Pension Plan (CPP). Throughout a person's life, they will build up credit in the CPP, but it is based on some complex math and the formula for figuring it out is not straightforward.

What you need to know is this:

Like other marital property, the Canada Pension Plan is something that can be split, but there is a process to it and it does not happen automatically. You might be wondering why couples would want to split their CPP credits. In most situations, one party to the marriage has typically worked more, because the other party stayed home with the kids or there was some other agreement that caused that party to earn fewer Canada Pension Plan credits.

To be fair, the credits that were earned jointly during the marriage can be added up (using a complex formula) and then be redistributed equally between the parties. This way, the party that devoted more time to non-paid activities such as raising the kids and maintaining the house, is still recognized for their contributions to the marriage, even if they were not measurable like paid employment.

To split the CPP credits, one party from the divorcing couple needs to apply using a special form. You can find it here.

This can only be done after the official divorce decree is issued and there is a limited amount of time to do this, so be sure to read all the information if this is something you are going to do.

Family Law Value

Before we talk about the other types of pension plans, let's talk about the term "Family Law Value". Family Law Value is the value of a pension accrued during a marriage that can now be divided between the former spouses. Sometimes an elaborate process of application and review must occur to decide on a Family Law Value for a pension.

However, many couples also elect to keep things simpler if they can. There are certain circumstances, such as with a defined benefit pension, where getting a costly evaluation may not be avoidable if its value will be included in the equalization. However, I have also seen clients obtain a Family Law Value from the pension provider simply by asking. It all depends on the company providing the pension.

If you need a pension evaluated, make sure that you get the correct application form. In Canada, a good place to start is at the FSCO website.

The process will be similar regardless of where you live, but it is up to you to find out specifically what rules apply to your state or country and which forms you might need to fill out.

Defined Contribution Plans

As the name suggests, a defined contribution pension is based on how much money was contributed by the policyholder and/or their employer to the pension. The monies that are contributed are then invested with the expectation that many years down the road, once you are ready to retire, the investment will have grown.

There are several things to consider when deciding how to evaluate a pension for splitting in a divorce. First, knowing how much was contributed between the Date of Marriage and Date of Separation is critical.

You will probably need to consult your employment's HR office to request the statistics on your pension account if you do not have a file with this information at home or access to it online. Many couples that I have worked with have simply used the value of the pension between DOM (Date of Marriage) and DOS (Date of Separation) and this is by far, the easiest way to go.

Commuted Value

Some people wish to go a step further and come to an agreement about the 'commuted' value of the pension. The commuted value is a *speculation* about what the pension will be worth at the time that the policy holder plans on retiring and will begin to collect the pension.

This is tricky, because unless you have a crystal ball, nobody can really know for sure how much today's value on a policy will be worth in 15 - 25 years' time. Another thing to consider is that in most cases, the split off funds from a pension will need to be reinvested in some sort of locked-in investment fund ***anyway.*** In which case, the party receiving the split-off funds will still have investment growth, so splitting the pension based off a commuted value would be like double dipping!

Defined Benefit Pension

A defined benefit pension is by far the trickiest type of pension to evaluate. That is because its value is dependent on several complex factors besides just the money that an employee has contributed to a plan. Because of this, a person with a defined benefit pension will need to apply for an evaluation to determine a range of commuted values that the parties will then need to decide upon.

Defined benefit pensions are analyzed and interpreted by a group of mathematicians called actuaries and *it's not a quick process.* These evaluations usually take several weeks to months to prepare, so factor this in and do not be surprised if you have all your other agreements made but are still waiting for the pension evaluation to arrive.

An evaluation for a defined benefit pension is often accompanied by ***a lot of information*** that should be read through. For example, there are often 3 'ages at retirement' given such as 63, 65 and 67 years old. Secondly, each of these ages will have 3 commuted values assigned to them based on different interest rates, say 3%, 5% and 8%.

As you can see, this can get complicated. You may have a minimum of 9 values to consider and you will have to make your best guess in cooperation with your ex.

If you are still struggling to understand how a defined benefit pension works, please reach out for help directly from the policy provider or from a knowledgeable financial professional.

Tax Implications and Penalties

People who are looking to split a pension should check into any tax law or penalties that may be applied to their pension because of disrupting it. For instance, sometimes employers will suspend contributions for a period after a split has occurred.

In most cases, funds split off from a pension must be transferred into another locked-in pension asset that will be taxed at the time of withdrawal later in life. However, in the rare situation where this is not the case, the monies withdrawn may be subject to taxation. This needs to be considered in your agreements, because the split may be more costly to one party than realized.

Again, check in with a financial professional if you are concerned that you do not understand all the implications of your agreements around your pension.

One final note about the clauses here. If you take the contributed value from the pension statement and use it rather than getting a Pension Evaluation done, do not call that value "the

Family Law Value" in your Agreement... because it is not. Instead, simply call it the "value of the pension" and that "the parties agree" on it. For actual examples of what this might look like in a Separation Agreement, see my book, *"The Definitive Sourcebook of Family Law Separation Agreement Clauses".*

Summary

Pensions can seem a little daunting to deal with because they seem rather complex. And if you have a defined contribution pension, they probably are. But do not let that hold you back from learning about how your pension works. A pension can be one of the most valuable assets you own and it may even be worth more than your home. So, take your time to really understand this and make the best possible decisions you can about it.

Chapter 4 WORKBOOK SECTION

Pensions

Pension 1

Pension Provider: ____________________________

Policy Number: ____________________________

Check:

☐ Defined Contribution or ☐ Defined Benefit:

Value at D.O.M.: ____________________________

Value at D.O.S.: ____________________________

Pension 2

Pension Provider: ____________________________

Policy Number: ____________________________

Check:

☐ Defined Contribution or ☐ Defined Benefit:

Value at D.O.M.: ____________________________

Value at D.O.S.: ____________________________

Chapter 5

MARITAL HOME BASICS

There are many things to consider when deciding what to do with the marital home in divorce.

First, like other marital property, the value of the home is shared. Unlike other possessions, however, even if one of you owned the home *before* you got married, in most cases, the entire value of it is now considered marital property in Canadian Family Law. If you live in another country, be sure to research this according to your own state laws.

Before we get into determining values and working out buyouts etc, let's have a good look at what you need to consider in the months ahead as one or both of you still live in the home before it is sold or bought out.

Major and Minor Repairs

Until the status of the home changes, the mortgage needs to be paid and various daily household expenses should be accounted for in your agreements.

You will need to decide how to share costs and who will pay the bills for expenses such as:

- The Mortgage
- Property taxes
- Electricity
- Water and sewer
- Natural gas
- Cable and landline telephone
- Minor repairs

Next, you can make a list of major repairs that may need attention before you sell your house.

On this list you can include:

- Plumbing or electrical repairs
- Replacement of
    - Major appliances

    - Furnace
    - Hot water tank
    - Chimney
- Swimming pool repairs
- Air conditioning or furnace repairs
- Exterior or interior painting
- Repairs on the exterior of the house.

You must determine which repairs need to be made, when, by whom and how they will be paid for.

Major Expenses

Besides daily home expenses and repairs, there can be other major expenses that should be discussed and delegated. The three most common major expenses are:

- Home Insurance
- Mortgage Payments
- Property Taxes

It would also be a good idea for you and your ex to take stock of your household contents and start making decisions about who is taking what. Use the list in the workbook section of this chapter to do that or come up with your own organizational method to go over this as thoroughly as possible.

If you and your ex simply cannot get along well enough to make these decisions together, then please consider hiring a mediator who may be able to help you sort through the challenges.

Chapter 5 WORKBOOK SECTION

Before the house is sold or bought out, there will be several expenses that need to be paid.

1. Daily Home Expenses

Use the chart below to list regular expenses that will need to be taken care of until the home is no longer a joint expense. Consider the following:

- Electricity
- Water and sewer
- Natural gas
- Cable and landline telephone
- Any repairs that are not major
- Property taxes
- Regular mortgage payments
- Insurance Premiums

Expense	Approx. Monthly Cost	Who is Paying?

2. Major Home Repairs

Use the chart below to list any **major** repairs that need to be done before the house is sold or bought out:

- Plumbing or electrical repairs
- Replacement of
  - Major appliances
  - Furnace
  - Hot water tank
  - Chimney
- Swimming pool repairs
- Air conditioning or furnace repairs
- Exterior or interior painting
- Repairs on the exterior of the house.

Expense	**Approx. Cost**	**Who is Paying?**

Chapter 6

SELLING THE MARITAL HOME

Putting the home up for sale requires researching the current housing market. Knowing the ebb and flow of your region's real estate economy is helpful and if you do not know much about this, a real estate agent will be happy to help you.

On that note, one of the first things to decide is ***when*** you will list your home for sale.
Once you have figured that out, you need to zero in on ***who*** is going to sell your house for you. If you and your ex already have connections with a trusted real estate professional, fantastic!

If you are not quite sure about who you wish to sell your home, it is time to do a little market research. You can ask local friends, family and coworkers if they have any recommendations for a good real estate agent. Also, start paying attention to roadside billboards, local newspaper ads and who’s ads show up first when you search online. The people with the bigger advertising budgets are the ones who make more money, because they are successful at what they do. Just something to consider.

It is not difficult to find online ratings these days, so pay attention to what popular social media sites might have to offer up about prospective real estate agents also. Once you have narrowed the list down of prospective realtors, go ahead and set up consults with them. Meeting in person will give you a much better sense if they are a good match for you. Also, be sure to ask each one of these realtors to give you an estimated market value for your home and keep a log of the various values using the workbook section of this chapter.

You can use these informal evaluations from multiple realtors to help you and your ex hone in on a listing price. If all the values are skewing to a small range of prices, then it is easy to know the price you should ask. If the range is broader, then find the average price or find out what the most recently sold homes in your neighborhood went for.

Finally, you and your ex will need to settle on which realtor to hire. If you have had some informal evaluations done by realtors, then you have already met a few. Hopefully you and your ex can decide who to choose with relative ease. But, if you are having a tough time making a joint decision, consider hiring a mediator before enlisting the services of a divorce attorney to hash it out.

Price

As mentioned, one of the ways you can help determine the listing value for your home is to get recommendations from realtors. However, some people hire an appraiser. This can be expensive, but it is sometimes necessary anyway, so it is an option to investigate.

Another source for market research is, of course, checking MLS listings online for your area or in local newspapers. You can keep track of your market research using the workbook section of this chapter.

Projects and Repairs

If you and your ex agree that some renovations or projects need to be completed on your marital home, take some time to list them using the workbook section to guide you. Determine if you will be able to successfully do the project on your own or if you will need to contract help. If you will be hiring a contractor, then you can list the total cost. If you are doing the project yourself, then make a list of the various costs for the materials you will need.

As for paying for the renovations, many people agree to put it on their Home Equity Line of Credit and then pay it off with the proceeds of the sale of the house. Other people have used some of their savings. However you plan to pay for the renos, you need to agree.

Fees

There can be many fees associated with selling a home and it is important to think them through and include them in your agreements. The biggest one, of course, is the commission you will pay your real estate agent. Unfortunately, this big expense is just part of selling a house.

There are some competitive options to lower fees but be careful and do your research before opting for a lower commission rate. Sometimes you get what you pay for. Be sure that the real estate service you hire will meet all your needs.

There is often a fee for paying off and discharging a mortgage because of selling. Make an appointment with your mortgage provider and find out exactly what to expect in this department.

If you choose to hire a home inspector to prepare a report for potential buyers, be sure to include that expense in the workbook records.

Finally, contact your real estate lawyer to inquire about how much they charge for processing the title transfer for the home.

“Negative Equity” and Declining Home Values

The chaos of the past few years caused many people to see a rapid up-tick in the value of their homes. Unfortunately, this has now been followed by a concerning decline in house values, as global markets are trying to balance interest rates with inflation. This can create an interesting paradox for divorcing couples.

If you owned your home prior to Covid then chances are, your home is still worth more than what you paid for it. This is very important to keep in perspective. I have had divorcing clients tell me that they do not want to sell their homes now, because they want to wait for the value to go up again. Here is the dialogue we have:

Me: “How much did you pay for your home?”

Client: “$300,000”

Me: “How much is it worth now?”

Client: “$900,000”

Me: “Ok, so your home is still worth 3 times what you paid for it. That’s a remarkable increase in value.”

Client “Yeah. Well, it was worth $1.2 million at the pricing peak last summer.”

Me: “That may be true, but that was an anomaly and your house is still worth more than you paid for it. You’ll pay off your debts and walk away with a very reasonable amount of equity when you sell. That’s a win”

Perspective is paramount in these situations. Investors know that there is always inherent risk with any asset that is linked to the volatility of the economy. Not all homeowners realize that they are investors though, so a perceived loss in value is often seen to be the same as someone stealing money directly from their bank accounts.

This is not an accurate way to look at this.

Just because the value of my children’s college fund was higher last spring, it does not mean I am entitled to the difference now that the economy has taken a downturn and its value has declined. If I need to use that asset now, then I must accept that its value has diminished. In any case, it is still worth *considerably* more today than it was when I first invested in it 10 years ago. I will not wait a few years to withdraw the funds in hopes that its value increases again. My son needs the money for his tuition NOW.

Likewise, if you are getting divorced and you do not want to sell your house yet because its value has decreased, the logic trail goes cold very quickly.

Let’s consider the challenges and risks of continuing to co-own a property after you are divorced.

The spirit of Family Law is to see that ex-spouses become **financially independent** of one another. If you are no longer married, your finances should no longer be married either. There are several red flags that are raised when divorcing couples want to continue with joint ownership of the marital home.

First of all, you will need to share several expenses throughout the years until the sale of the home. These include mortgage payments, property taxes, minor repairs, major renovations and emergency (costly) repairs. What if one party cannot or does not want to contribute to these anymore, but the home value is still low or even lower than when they were first divorced?

Can the other party continue to pay for all the expenses themself and how will that be considered into splitting the equity when the home is sold one day? What if this sort of a scenario forces the sale or the buyout of the home anyway? Will the ‘forced’ party be okay with the untimely sale of the house and how that may interrupt their life?

Beyond the financial considerations, let’s think about the daily life of two divorced people continuing to live under the same roof, sharing space.

People divorce for a reason.

Usually, it’s because they do not love the other party anymore. Often this translates into: they dislike the other party very much. Is it wise or realistic to think that two divorced people continuing to live together is mentally and emotionally viable?

Continuing to live together after divorce is not a good way to move forward in life.
“Well alright”, you might say, “what if the parties rent the house out then? You know the saying, “Same $@#!, different pile”? Apply that here.

Being a landlord is hard, especially if you end up with bad tenants. Is this really the kind of problem-solving situation that divorced people should intentionally get themselves into?
I hope the answer is self-evident.

What if the home is worth less than the mortgage? This is called ***negative equity***.

Unfortunately, this has happened to many unsuspecting ‘peak-price’ home buyers. Again, people in this situation feel compelled to continue with joint home ownership post-divorce. Most of the reasons to avoid this have already been cited. But, in this scenario, there is the additional factor that your home is actually a **liability** and *not an asset at all*.

What if the disparity between the house value and mortgage balance continues to widen in the wrong direction post-divorce and the parties discover they simply cannot continue on with the stress of co-owning or they are going to go crazy? They will probably be **forced** to sell, except now they will owe the bank even *more* money and run the risk of having to declare bankruptcy.

I will say it one more time: If you have negative equity, your home is *not an asset!* It is a **liability**. Do you really want to continue owning a debt with your ex? As much as it hurts, it will probably be less painful to swallow the medicine now, then to continue living with an exorbitant amount of stress and volatility in a hundred little ways. An ounce of prevention is worth a pound of cure here.

If this is your situation, you can survive this. I have seen many people walk through the hard choices, start over again and build an even better life. Divorce is an opportunity to cut ties with things that were not working and to start over. This may mean you will be off to a rough start at first, but by making wise choices, you will set yourself up for a successful future.

Summary

Putting the home up for sale involves planning, research and making agreements. Once you and your ex have sorted those particulars out, you must also have a look at the contents of your home and determine who will take what, what will be sold or given away and what can be taken to the trash. Most lawyers and mediators do not want to get into the minutiae of disputes over your stuff unless it has really high monetary value. So, do your best to be amicable and reasonable and avoid paying big bucks to sort out little problems.

Chapter 6 WORKBOOK SECTION

1. Address of the marital home:

____

2. Listing Date:

____

Each party should select 1 -3 real estate agents that they feel would be a good match.

3.Real Estate Agents:

Me

Name of Agent	Company	Phone Number/Email

Ex-Spouse

Name of Agent	Company	Phone Number/Email

4.Similar homes in my area are selling for:

____

5.Real Estate Agent Price Recommendations:

Agent's Name	Recommended Price $$$

6. Appraisal Recommended Value: $______________________

7. Price Suggestions from Other Sources

Source	Address of Property	Price $$$

8. I propose that we put the house on the market for (you can give a range):

____

9.Major projects/repairs to do before house goes on the market:

Project	Cost	Deadline

10.Estimate of Fees associated with Selling:

Real Estate Commission: ____________% Estimate: $ _____________

Mortgage Payoff Fees: $____________

Presale Inspection Fee: $____________

Lawyer’s Fees $____________

Chapter 7

MARITAL HOME BUYOUT

For some couples, calculating a buyout is straightforward and for others it is a bit complicated. In this chapter, I am going to go over the things that I have found to be most helpful for my clients over the years.

The key issue with doing a buyout is that the parties need to *agree* on a price for their home. The buyer would, obviously, like the price to be lower and the seller would, of course, like the price to be higher.

If you skipped over the previous chapter on selling the home, I recommend that you go back to it and follow the steps for deciding on a price for the home before continuing with this chapter. These steps work whether you are selling your home or doing a buyout and they are essential to settling on a price.

Sometimes couples agree on a price that is different from an appropriate price for the true market value of the home. If both parties agree on this and feel adequately informed about making a decision like that, this is ok.

Including Fees and Costs

I would like to address the idea of including resale home costs in the value for the buyout. Sometimes the person who is buying the home out from the other party wishes to add the potential costs of selling the home one day into the buyout equation. This might include costs such as real estate commission and legal fees.

Depending on where you live, this may not be legally permitted, so be sure to check into your local laws governing this aspect of divorce and separation. Getting into the arguments for and against including these fees goes beyond the scope of this book. However, if you want to do your own research, there are plenty of helpful articles online.

Sometimes there is a fee for breaking a mortgage or for remortgaging at the wrong time. In this situation, the parties may agree to split the cost of this fee, since it is a result of the marital breakdown. Another area where a fee will apply is for the title transfer. When removing a name off the title of the home, you will have to pay a lawyer's office. Because it will likely cost several hundred dollars, you should decide if one person will pay for this or if it is a shared expense. What's more, this should be listed in your agreement.

How To Calculate A Buyout

The following example is from Video 7: Calculating a Marital Home Buyout

Step 1. Calculate Equity

Take the agreed upon price for the house and subtract that from the balance left owing on the mortgage. Lets say John and Patricia agree that their house is going to be valued at $500,000 and that the mortgage remaining is $250,000.

The difference between the value of the home and the mortgage is the equity that is built up in the home and it is worth $250,000.

Step 2. Calculate Buyout Price

To calculate the value of the equity that each party owns, divide the equity by 2. In this case, $250,000 ÷ 2 = $125,000.

To have exclusive title on the home, John needs to buyout Patricia's half of the equity for $125,000.

To pay the other party, most people need to include the buyout amount in the remortgaging of the home. Using John and Patricia's example again, we see here that there is still $250,000 left on the mortgage.

John will be assuming this by virtue of the buyout and he will have to add an additional $125,000 onto the mortgage so he can pay Patricia her half of the equity - the $125,000.

John's new mortgage will be somewhere around $375,000, but he will also own the full value of the equity now - the $250,000.

As you can see, doing a marital home buyout can put a person into an increased lot of mortgage debt and it is critically important that the buyer assess if they can afford to do this. Remember that banks will often lend people more than they can comfortably manage. This can make a person 'House Poor' as we discussed in the budget chapter.

Another disturbing trend right now is that people's house values are sometimes falling below the balance remaining on the mortgage. (This was discussed in the last chapter.) In this case, the divorcing parties have ***negative equity*** and do not own anything but the debt on the house.

Some people want to hold on until the economy turns around. However, this can be dangerous if you are barely scraping by to make your payments. If the inflation and interest rates continue to rise and house prices continue to drop, you could end up owing a lot of money if you are forced to sell the house.

In the case of a negative equity buyout, imagine the house is worth $950,00, but the mortgage has a balance of $1,000,000. The difference is $50,000. For the party that wants to keep the house to do a buyout, they must receive half this amount ($25,000) from the party that is transferring their interest to them. It sounds a little crazy, but the party that does *not* want to keep the house has to pay in this case!

If this is the situation you find yourself in, please get the advice of a knowledgeable financial professional. It may be better to cut your losses now and start over than risk having to declare bankruptcy in the future.

How Long Will You Pay Your Mortgage For?

The last issue that you need to consider is *how long* you will be paying your new mortgage for. Remember, this mortgage will probably be quite sizable compared to the previous mortgage since you have to include the buyout value you owe your ex.

If you are 50 years old and have remortgaged for 25 years, you'll be 75 before it is paid for. Will you have enough retirement income to continue covering your mortgage payments or will you have to continue working? These are very important considerations.

Summary

We will go over the numbers again in the equalization chapter, so do not panic if this is starting to feel a little overwhelming. Go over the part we just did with a calculator or pen and paper to see for yourself how the calculations are done.

If you know your own numbers, you can insert them into the formulas in the workbook section of this chapter and get the value for your buyout. If you are struggling with some of the concepts in this chapter, read through it again and work through the math yourself until you get it. If you are going to do a buyout, it is critical you understand the calculations so you do not get taken advantage of.

Chapter 7 WORKBOOK SECTION

Marital Home Buyout Worksheet

1.Agreed value for home $___________________________

2. Balance owing on mortgage $___________________________

3. (1) - (2) divided by 2 = (Equity) $___________________________

4. Mortgage Break/Payoff penalty $___________________________

5. Other fees $___________________________

6. Total (4) + (5) divided by 2 = $___________________________

7. (3) + (6) = (Total Buyout $$$) $___________________________

HOW OLD WILL YOU BE WHEN YOUR NEW MORTGAGE IS PAID OFF?

Current Age + Years that your new mortgage is amortized over = ________________
This is how old I will be when my mortgage is paid off. Is this worth it?

Chapter 8

CALCULATING EQUALIZATION

In this chapter we are going to go over how to calculate the NET FAMILY PROPERTY and figure out the Equalization for your Agreement using the workbook section of this chapter. Feel free to use a spreadsheet if you prefer.

Up until now, you have been working your way through various aspects of your marital finances. You have gathered a lot of information and numbers and now it is time to start bringing it all together. Essentially, by working through the equalization, we are figuring out what the total NET value of all the owned property is between the divorcing couple.

As you will see, one party usually owns more of the marital property and to make it fair and equal, a payment will need to be made from the party who has more to the party who has less. By doing so, both parties should walk away with an equal amount of the NET FAMILY PROPERTY.

This can be a tricky section to work through, but I have created a video for you to follow along with, if you prefer. You can find it here.

Assets and Debts at Date of Separation (DOS)

Using the workbook sections in the previous chapters, we calculated the net values of all your assets, debts, pensions and the marital home. By 'net', I mean we calculated the amount that something was worth on the Date of Separation (DOS) and we subtracted the amount that it was worth at the Date of Marriage (DOM), if it existed then.

This allowed us to calculate the increase in wealth during the duration of marriage.

Because you have already done the work of figuring out what these **net values** are using the tools in this book, we simply need to put them into the equalization chart, no need to do the math again.

Consider this example (which can be found in the video): John came into the marriage with $10,000 of work RRSPs and throughout their 10-year marriage, those RRSPs increased to $100,000. Therefore, the NET increase in value during the marriage was $90,000. Therefore, $90,000 would be assigned to John's Asset Column.

As well, John has a work Pension. It was worth $15,000 when he married Patricia and it grew to $85,000 while they were married. Therefore, the NET increase of John's Pension during the marriage was $70,000. So, $70,000 is assigned to John's assets column.

Next, John has a whole life insurance policy that his parents bought him *before* he was married. It had a cash surrender value of $5000 when he married Patricia and was worth $25,000 on the DOS. So, the net increase of $20,000 is assigned to John's assets column.

John has a Honda Civic and it's worth $20,000. He didn't have it on the Date of Marriage and there is no money owing on it. $20,000nis assigned to John's assets column.

Finally, John has a credit card with a balance of $1500 on it, so we'll assign that to his debt column.

Here's how this should look in the chart so far:

Equalization Table

Title: ____________________________

Note: Make **Name A** the one that will have the higher net property

A. Name: John	**B. Name:** Patricia

Title of Asset or Debt	A. Asset	A. Debt	B. Asset	B. Debt
J's RRSP	$90,000			
J's Pension	$70,000			
J's Life Ins.	$20,000			
J's Car	$20,000			
J's Credit Card		$1500		

Assets - Debts = Net property	**A.**	**B.**

A - B =	**C.**

Equalization = C ÷ 2	

Now, moving on to Patricia's assets. She had an RRSP worth $5000 when she married John and it is now worth $20,000, so we will put $15,000 in her asset column.

Patricia also has a Honda Civic. She did not have it before John and her were married, and it is worth $25,000. However, there is still a loan of $10,000 remaining on Patricia's car, so the NET value of her car is $15,000. We'll assign that to her Asset column because she will be keeping her car and taking over the loan on it in her name.

John and Patricia have some joint debts that include a line of credit that is $20,000 and must be paid off when John buys out Patricia's half of the home. Also, he will be paying the $2000 that is left on their joint credit card. Because this will become part of his debt exclusively, we will assign both of these debts to his side.

Finally, John is Buying out Patricia's half of the equity in the home, which is $125,000. Therefore, he will have the full value of the equity of the home, which is $250,000, assigned to him as an asset.

So, we can see from the totals at the bottom of the figure, that John's portion of the marital property is worth $426,500 and that Patricia's is $30,000. John has $396,500 more than Patricia.

To make it fair and equal, John needs to give Patricia half of the difference, or $198,250. If we do some quick checking math, we will see that after the equalization payment, each party will have $228,250 of the net family property.

Equalization Table

Title: ____________________

Note: Make **Name A** the one that will have the higher net property

A. Name: John	B. Name: Patricia

Title of Asset or Debt	A. Asset	A. Debt	B. Asset	B. Debt
J's RRSP	$90,000			
J's Pension	$70,000			
J's Life Ins.	$20,000			
J's Car	$20,000			
J's Credit Card		$1500		
P's RRSP			$15,000	
P's Car			$15,000	
Joint LOC		$20,000		
Joint Credit Card		$2000		
Home Equity	$250,000			

Assets - Debts = Net property	A. $426,500	B. $30,000
A - B =	C. $396,500	
Equalization = C ÷ 2	$198,250	

John = $426,500-198,250 = $228,250
Patricia = $198,250+$30,000 = $228,250

Each party walks aways with $228,250 because John paid Patricia an equalization payment of $198, 250.

Let’s take a moment and quickly see what happens if John and Patricia decide to sell their home instead of having John buy it out from Patricia.

First, let’s say the home sells for $500,000 and that the mortgage remaining is $250,000.

That leaves a net equity of $250,000 before fees and paying off joint debt.

From the $250,000, we’re going to subtract 3% real estate commission at $15,000.

Also, lawyer’s fees of $3000, the joint credit card debt of $2000 and the Line of Credit of $20,000.

That leaves approximately $210,000 for John and Patricia to split, giving them $105,000 per person.

Now, we can see that this change has also affected the amount of equalization that John needs to pay Patricia.

In this case, because John still has more assets, but Patricia gets money from the sale of the house, John owes Patricia $84,250 instead of $198,250.

The numbers are lower for the equity of the home because of the expenses involved in selling it.

Therefore, if we do some quick math, we can see that

John: $303,500 - 84,250 = 219,250
Patricia: $135,000 + $84, 250 = $219,250

Each party has $219, 250 of net family property and this is fair.

Equalization Table

Title: ______________________

John: $303,500 - $84,250 = $219,250

Patricia: $135,000 + $84, 250 = $219,250

Note: Make **Name A** the one that will have the higher net property

Sale of House = $500,000

Mortgage on House = $250,000

Equity Before Fees = $250,000

Real Estate Commision: $15,000

Lawyer's fees: $3000

Joint Credit Card: $2000

Joint Line of Credit $20,000

Total: $40,000

Home Equity = $250,000-$40,000

= $210,000

$210,000 x .5 = $105,000 Each

A. Name: John	B. Name: Patricia

Title of Asset or Debt	A. Asset	A. Debt	B. Asset	B. Debt
J's RRSP	$90,000			
J's Pension	$70,000			
J's Life Ins.	$20,000			
J's Car	$20,000			
J's Credit Card		$1500		
P's RRSP			$15,000	
P's Car			$15,000	
Joint LOC		~~$20,000~~		
Joint Credit Card		~~$2000~~		
Home Equity	$105,000		$105,000	

Assets - Debts = Net property	A. $303,500	B. $135,000
A - B =	C. $168,500	
Equalization = C ÷ 2	$84,250	

Summary

You made it through the most complicated part of your divorce calculations - and you survived! Preparing step by step is the key to not getting overwhelmed as you work through all the different aspects of preparing for your divorce agreements. Calculating an equalization really does give you the big picture of your divorce financials.

Chapter 8 WORKBOOK SECTION

Equalization Table

Title: ______________________________

Note: Make **Name A** the one that will have the higher net property

A. Name:	B. Name:

Title of Asset or Debt	A. Asset	A. Debt	B. Asset	B. Debt

Assets - Debts = Net property	**A.**	**B.**

A - B =	**C.**

Equalization = C ÷ 2	

Chapter 9

CALCULATING SPOUSAL SUPPORT

Most Family Law systems do not provide exact remedies for spousal support or alimony. Rather, guidelines are provided that should be considered when deciding if and how much spousal support should be awarded to a particular party.

In its most basic sense, spousal support is based on the recipient's ***need*** for it and the payor's ***ability to pay*** it. If the recipient does not actually need alimony, then it should not be considered. Likewise, even if the potential recipient needs spousal support, if the paying party cannot afford it, then the recipient will have to strategize other ways to increase their income.

In most cases of divorce, the goal should be for each party to become financially independent of the other as soon as possible. Understandably, there are cases where a person may never be able to be financially independent and those constitute the first 2 guidelines.

GUIDELINE #1. Age

The first guideline is an age consideration. If one party to the marriage has been consistently dependent on the other to provide financially and if that person is older, it may be very difficult for them to enter the workforce and become financially independent.

It is challenging to get hired for jobs the older you are and especially if you have not been working for a very long time or at all.

If this is your situation, then there could be a substantial reason for you to need alimony.

GUIDELINE #2. Permanent Disability

The second reason that an ex-spouse may never be able to become financially independent is because of a permanent disability. This one is self-explanatory.

If you have a permanent disability, not only should you consider spousal support as a means of financial help, but you must also investigate any government assistance you may qualify for under your new status of being single/divorced. Your benefits will probably increase.

What's more, many disabled people find that there are jobs and small business ideas that are compatible with their condition and that will allow them to participate in contributing financially to themselves and their children.

It is important that people really try to help themselves as much as possible, not only because the courts expect it, but because doing so gives a person purpose and that can contribute to a better state of mental well-being and even physical well-being.

GUIDELINE #3. You Have Young Children

The third guideline applies to people who have children at home who are below school age and require a caregiver to be present.

The most typical scenario is a mom who has stayed home with a young child since he or she was born and the married couple has made a choice for mom to stay home rather than return to work and put the child into daycare.

In a scenario like this, spousal support may be suitable until the child attends school.

GUIDELINE #4. Insufficient Education

The fourth guideline has to do with one's potential to work a skilled job and earn a higher income. Sometimes a party to a separation has not completed post-secondary education that will allow them to make a reasonable amount of money to independently support themself.

For instance, if a spouse has worked a part-time job at a minimum-wage paying company and they have no college diploma to help them be upwardly mobile, they will need some help getting the education they need to get financially independent. In most cases, this will mean attending college or university for a period to empower their wage-earning potential.

While this person is attending school, they may need spousal support to make ends meet, knowing that the goal is financial independence.

GUIDELINE #5. Long-term Marriage

Finally, the fifth guideline takes into consideration how long the couple has been married. A long-term marriage in Canada is 20 years or longer. The longer a couple has been married, the more likely spousal support may be warranted.

How Long Should Spousal Support Be Paid?

Whenever possible, alimony should have an end goal for termination.

It is better for both parties if spousal support is for a finite period because it means that eventually, the parties will once and for all be separate in every way, other than being parents to their children.

Not only are there physical benefits to being financially independent, such as not having to answer to your ex about support related issues, there is a powerful psychological benefit to being one's own free agent financially.

A plan should be worked out between ex-spouses if alimony will be paid. This plan will take into consideration the reasonable financial need of the support recipient. This is where the budget comes into play. If you have done the budget worksheet, understanding what the areas of need may be becomes easy.

But beyond need is the question of whether the other party can reasonably provide the support that is being requested.

It costs a lot to start over again and if the payor is also paying child support, there is only so much money to go around without causing undue hardship.

If it will be a challenge for the paying party to provide the amount of support fairly and reasonably, then other options must be considered.

Using the Path to Financial Independence Worksheet at the end of this chapter, you can assess the needs, resources and timeline that should be considered if you will be including Spousal Support in your Agreement.

The Pathway to Financial Independence

"The Path to Financial Independence" Worksheet is an excellent resource to help you begin working out the details of how much money is needed for spousal support, how long the support will last for and what actionable steps the support receiver can take to get themselves into financial independence.

Understandably, some people may not be able to achieve full financial independence, but where possible, it should be done.

In question #1 check off which of the guidelines applies to your situation.

Next, in question #2, go to MySupportCalculator.ca and calculate your spousal support range. If you are from another country, do an online search for a similar calculator. If you cannot find one, you can use the Canadian one to give you a reasonable idea of what the range for spousal support might be for your situation. Watch the video to see a walk-through of using this online tool.

Once you have used a calculator tool to get a sense of what might be reasonable, you will need to check it against your situation. Evaluate what you believe is a reasonable amount of spousal support based on the guidelines and the payor's ability to pay.

Now, using the numbers you calculated for support and your own thoughts, how long should spousal support last?

Finally, a plan is needed to help the spousal support receiver get into a position of financial independence from their ex. Use the worksheet to help guide you through all these choices.

Chapter 9 WORKBOOK SECTION

Path to Financial Independence

Spousal Support Personal Assessment

1.Which of the following 5 guidelines applies to your situation? You can check multiple boxes:

- ☐ Age 55+ with little/no employment history
- ☐ Permanent Disability that makes working a challenge
- ☐ Have a child younger than school age
- ☐ Need more education to be employed at reasonable wage
- ☐ Long term marriage 20+

2. According to MySupportCalculator.ca, what is the recommended range for Spousal Support for your situation?

____

3.What amount of Spousal Support do YOU think is appropriate for your situation?

____

4. Can the Spousal Support Payor reasonably afford to pay that amount of Spousal Support?

____

5. What should the termination date be for support? Use MySupportCalculator.ca and your own judgement.

____

6. What actionable steps should the support receiver take to become financially independent of their ex? Give approximate timeline also.

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What Now?

Working through the financial aspects of divorce can seem overwhelming at first. I hope that this book and the videos that accompany it have helped you to see that it's not so terrible once you have a roadmap.

If you have a really challenging ex, then you will still have some difficulties to traverse in negotiating your agreement. However, having a very good sense of what your marital finances are will give you an edge. Often, financial negotiations in divorce are about moving the pieces around until you get a configuration that will help each of you move on successfully. It is a bit like playing a strategy game. And with all good strategic plays, you should think through all your potential moves, but keep them to yourself until needed.

This book is just one of many resources you can use as you prepare to negotiate with your ex. Remember to consult with financial professionals, too. Some of them are certified in divorce finances. Finding a financial expert who knows what options there are for divorcing couples is both valuable and wise.

All the best as you endeavor on this journey.

Michelle D. Rakowski