Snapshots™

DIVORCE:
DIVISION OF ASSETS

WHEN YOU SPLIT UP WITH YOUR SPOUSE YOU WILL NEED TO DIVIDE YOUR ASSETS EVENLY.

The division of assets upon relationship breakdown is a provincial/territorial concern and there are variations across the country depending on where you live. There are also differences depending on the nature of your relationship (married or common law). Consequently, you are advised to consult with a lawyer familiar with the laws of your province or territory.

However, the laws across Canada do have some factors in common. Generally the law regards a marriage as a partnership and although, in many provinces, assets brought into a marriage are not usually subject to division, the increase in those assets can be divided upon a separation. Family assets may include bank accounts, non-registered investments, registered investments such as RRSPs, real estate, etc. Any family debts incurred will also be included and reduce the overall asset value.

Some assets may be exempt from being divided. Again, depending on the province, these can be inheritances received, personal injury awards and life insurance proceeds.

The family home is a special case. In most provinces and territories the family home is subject to division regardless of when the property was purchased or who purchased it.

Once the division of property is determined, tax law will likely allow for the tax-free transfer of the asset to the former spouse. In the case of registered assets such as RRSPs that are being transferred subject to a legal agreement on relationship breakdown, the money must be transferred to another tax-sheltered plan to avoid immediate taxation. Tax form T2220 will have to be completed and your advisor can assist you with this.

If you or your former spouse are members of a Registered Pension Plan, there will usually be a required division of those benefits as well when your relationship ends.

If you are in a Defined Contribution Pension Plan (where you know how much is being contributed to the plan by you and/or your company), the division is based on an agreed-upon portion of the current value of the pension. In many jurisdictions no more than 50% of the value earned during the relationship can be transferred.

With a Defined Benefit Plan (where what the pension pays you when you retire is based on a formula), in most jurisdictions the amount to be divided will be based on a lump sum payment at the time of separation as if the pension was being terminated at that time.

Pensions are designed to provide benefits to support the pension member for his or her retirement years. This is why most pensions are 'locked in'. You can't simply withdraw the money. In most cases, this locking-in will also apply to the benefits transferred due to a relationship breakdown. There will be a number of options to consider with respect to the transfer of pension benefits. Let's discuss what option will work best for you.

You will need to contact your pension administrator when a transfer of pension benefits is required. They can assist you in explaining the options and how the transfer will be made. Special forms will have to be completed. I will be pleased to help you with this process.

09DWD130_Dynamic_Article_Divorce_Division_EN_V4

Important Information

Information contained herein is provided for information purposes only and should not be relied upon exclusively as estate, tax planning or investment advice, nor should it be construed as being specific to an individual's investment objectives, financial situation or particular needs. You should always obtain professional advice before acting on the basis of material contained herein. While Dynamic Funds® will endeavour to update this information from time to time as needed, information can change without notice and Dynamic Funds® does not guarantee the accuracy or completeness of this information, including information provided by third parties, at any particular time, nor does it accept any responsibility for any loss or damage that results from any information contained herein.

Dynamic Funds®
Invest with advice.