

DIVORCE FINANCIAL ADVISING UPDATE

December 2016

Financial Aspects of Legal Separations

Some couples choose to take an interim step in ending their marriage with a decree of legal separation rather than a divorce. The most common reasons are:

- **retention of medical benefits** – however, more companies are considering legal separations the same as divorce for medical benefits
- **religious beliefs opposing divorce**
- to meet the **10 year requirements** for derivative social security or direct payment of military benefits

Tax consequences and filing status: Many believe that if a couple is legally separated, they are considered married and must file either married jointly or married separately. That is not the case. According to IRS Publication 501, “*your filing status is single if, on the last day of the year, you are unmarried or legally separated from your spouse under a divorce or separate maintenance decree, and you do not qualify for another filing status.*” Another filing status, if legally separated, is head of household, if qualified. The State of California uses the same criteria as does the federal government for determining filing status.

Alimony: Unless the couple agrees otherwise, alimony is deductible by the payer and included in the recipient’s income. Per IRS Publication 504, “Alimony is a payment to or for a spouse or former spouse under a divorce or separation instrument”. The term “divorce or separation instrument” means:

- “A decree of divorce or separate maintenance or a written instrument incident to that decree.
- A written separation agreement, or
- A decree or any type of court order requiring a spouse to make payments for the support or maintenance of the other spouse.”

Since legal separations are not difficult to convert to a divorce and might provide some additional financial benefits, there may be some couples who could benefit from this approach.

Have questions? Need Help? Call or e-mail me!



Thea Glazer,
CFP®, CDFA™
MS Accounting
Trained in
Collaborative Divorce

Offices in San Diego
and Laguna Hills, CA

Glazer | Financial Advisors

16870 West Bernardo Drive, Suite 400 | San Diego, CA 92127 | Tel: 858-485-0814
23046 Avenida de la Carlota, Suite 600 | Laguna Hills, CA 92653 | Tel: 949-397-9105
| Fax: 1-888-255-6782 | E: thea@glazerfa.com
www.glazerfinancialadvisors.com