How to Protect Your Money in a Divorce

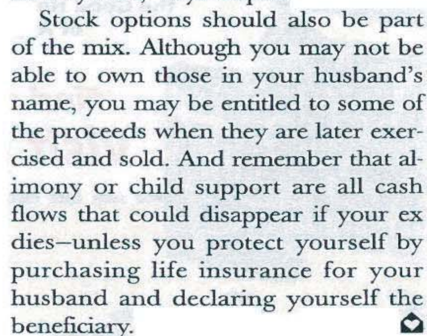
Why it's imperative to understand your assets—and which ones are worth fighting for

Getting divorced can be an emotionally wrenching—if not downright bitter and divisive—experience. But when it comes to divvying up marital assets, there's no reason you can't get past the pain and focus on making smart, sound decisions to ensure your long-term financial health. "Women who negotiate with their heart instead of their head can leave a lot more than necessary on the bargaining table," says Jamie Lapin, a certified divorce financial analyst in Rockville, Maryland.

The first step is mastering the financial facts of your marriage: income, pension plans, property and other assets. Ideally, you and your husband have been sharing this information all along. If not, it's time to pore over checkbooks, brokerage statements and tax returns—and enlist the help of a divorce financial analyst in addition to your divorce lawyer. That costs on average about $160 an hour, but it's well worth it. Even if you live in a state with laws mandating equal division of property, your spouse can always lie or hide assets, or pressure you into a deal that isn't equitable. A divorce financial analyst is more adept at uncovering any such assets and is also more knowledgeable about evaluating different investments, comparing them, and projecting how they will affect you in the future.

Then it's time to divide the spoils, starting with the largest ones—the house and retirement plans. "Typically, the wife wants the first and the husband wants the second," says Joel Weiner, a certified financial analyst in Palatine, Illinois. "You have to run the numbers, but you generally find that the pension is the better asset." A retirement plan such as a 401(k) involves no upkeep or taxes, and stands to appreciate over time. But keeping the house means you're responsible for mortgage payments, property taxes and maintenance expenses. Nor is it a liquid investment—that is, you can't sell a part of it if you need the money. Selling the house before the divorce is final, however, benefits both spouses, since it entitles you to deduct up to $500,000 of the sale profits from capital gains taxes (if you sell it on your own later, you're entitled to only half the amount).

If you decide to split your pension and retirement assets, both parties have to file a qualified domestic-relations order (QDRO), a legal document that directs pension-plan sponsors how to pay out the funds. Most people don't realize that in the event of divorce, you can empty a defined contribution plan, such as a 401(k), even if you aren't the required 59½ years old, *without* paying a tax penalty, says San Diego–based financial planner Mark Hill. Traditional pension plans paid by a company, known as defined benefit plans, generally can't be disbursed until the working spouse retires, but you can stake out a portion of that for your future. And don't forget social security. "After 10 years of marriage, you are entitled to an amount equal to 50 percent of your spouse's benefits, and he to yours," says Lapin.



Stock options should also be part of the mix. Although you may not be able to own those in your husband's name, you may be entitled to some of the proceeds when they are later exercised and sold. And remember that alimony or child support are all cash flows that could disappear if your ex dies—unless you protect yourself by purchasing life insurance for your husband and declaring yourself the beneficiary.

BY PAMELA BLACK