

EVERYTHING YOU SHOULD KNOW ABOUT DIVORCE

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State Bar of Arizona
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American Institute of Practicing Accountants
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Maricopa County Bar Association
Coconino County Bar Association

Melvin has lectured for the above organizations on issues pertaining to divorce, taxation, business evaluation, child custody and visitation, examination and cross-examination of mental health experts and witnesses, and retirement and pension plans.

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DIVORCE - THE COURT PROCESS

The following is an outline of the Court process in a dissolution action.

THE PETITION IS FILED - a \$136.00 filing fee is required.

Conciliation counseling is invited whether or not there are custody or visitation problems present. Counseling, either with Conciliation Services or a private counselor, is mandatory whenever custody or visitation is at issue. The Court may order a Conciliation court study on its own motion or the parties may agree on a jointly-appointed private expert.

SERVICE OF PROCESS

Service of Process upon the Respondent by a qualified process server is required or, in the alternative, an Acceptance of Service signed by Respondent, notarized and filed with the Clerk of the Court. The Acceptance cannot be executed until the case is filed and given a case number. An appearance by Respondent or his attorney in open court or the filing of a pleading allowed under Rule 7(a) of the Arizona Rules of Civil Procedure shall have the same effect as if the summons had been served.

DOCUMENTS TO BE SERVED UPON RESPONDENT

1. Copy of Summons;
2. Copy of Preliminary Injunction;
3. Copy of Notice of Right to Convert Health Insurance;
4. Copy of Petition for Dissolution of Marriage.

In the event a hearing requesting temporary support, maintenance, and other relief is a part of the action, the following documents shall also be served upon Respondent.

5. Copy of Petition for Order to Show Cause Re: Pendente Lite Relief;
6. Petitioner's completed Affidavit of Financial Information along with copies of the parties' tax returns for the last three years and the two most recent paystubs of Petitioner;
7. Order to Show Cause Re: Pendente Lite Relief with blank Affidavit of Financial Information;
8. Copy of Rule 6.4 of the Local Rules of Civil Procedure.

AUTOMATIC PRELIMINARY INJUNCTIONS

Pursuant to A.R.S. §25-315, an Automatic Preliminary Injunction is issued against both Petitioner and Respondent, restraining them from transferring, encumbering, concealing or otherwise disposing of any property except in the usual course of business or for the necessities of life and, as such, requiring him or her to notify the moving party of any proposed extraordinary expenditures made after the order is issued;

Further enjoining either party from molesting or disturbing the peace of the other party or any child;

Further enjoining either party from removing a child from the jurisdiction of the Court.

The Preliminary Injunction becomes effective upon Petitioner at the time of filing of the Petition for Dissolution. The Preliminary Injunction becomes effective upon Respondent upon service of process or his/her acceptance of service.

RESPONSE - A \$101.50 filing fee is required.

The Respondent has twenty (20) days from the date of service of process or acceptance of service within which to file a response to the Petition for Dissolution if service is effected in the State of Arizona. If service is effected outside the State of Arizona, the Respondent has thirty (30) days within which to file a response thereto.

ORDER OF PROTECTION

In order to obtain an Order of Protection excluding a party from the community household and other locations where the protected spouse and child(ren) reside, work or attend school, the Court must be convinced irreparable injury will occur. This normally means that there has been serious physical violence and abuse or threats of harm or abduction to either party or the child(ren), if any.

The requesting party must appear at a Judge's office and complete the appropriate forms setting forth past violence, description of the violent spouse, location and persons to be protected. You must allege the date, time, place, witnesses present and exact nature of physical abuse and resulting injuries. While the applicant waits, a Judge will review the Petition and if everything meets

with his approval, the Judge will sign the Order of Protection at that time. The police department and sheriff's department must be given an issued copy and one issued copy to serve upon the offending party. This Order must be served directly upon the offending party to be effective.

If an attorney has previously made an appearance on behalf of the requesting party, the attorney will be required to sign the Petition for Order of Protection. If a Petition for Dissolution has not yet been filed in the Superior Court, a party requesting an Order of Protection has the option of obtaining same from their local Justice Court. Once a Petition for Dissolution is filed, the Order of Protection is then transferred to the Superior Court pursuant to A.R.S. §13-3602(M).

PENDENTE LITE ORDERS

Orders of the Court Commissioner obtained at the initial hearing on Order to Show Cause are effective until the entry of the final Decree of Dissolution. The initial Order to Show Cause is normally set by the Court three to four weeks after a request for such Order to Show Cause is made. A hearing on temporary orders is limited to forty-five minutes. At this time, the Commissioner will hear testimony from the parties and arguments of counsel. You may also submit affidavits from any third persons to substantiate your position.

In the event the parties are able to reach an agreement, the resulting stipulation which sets forth such temporary orders have the same effect as a Commissioner's ruling.

Normal Pendente Lite Orders consist of:

1. Child custody and visitation;
2. Child support;
3. Spousal maintenance and/or division of income;
4. Possession of certain residences and automobiles;
5. Control of a family business.
6. Interim attorney's fees and expert fees.

If there is a request for spousal maintenance, child support, and/or interim attorney's fees or expert fees before the Court, both parties must have filed an Affidavit of Financial Information with the Court and provided said Affidavit, with the appropriate attachments, to the opposing party at least three business days prior to the scheduled hearing.

If you are requesting a division of income, a "Pendente Lite Division of Income Worksheet" must be prepared for submission at the hearing.

DISCLOSURE STATEMENTS

Disclosure Statements pursuant to Rule 26.1 of the Arizona Rules of Civil Procedure are to be exchanged between the parties forty days after the filing of a responsive pleading to the Petition for Dissolution unless the parties agree otherwise or the Court shortens or extends the time. The initial Disclosure Statement shall include:

1. The factual basis of each claim or defense;
2. The legal theory upon which each claim or defense is based, including citations of pertinent legal or case authorities;
3. The names, addresses, and telephone numbers of any witnesses whom the disclosing party expects to call at trial with a designation of the subject matter about which each witness might be called to testify;
4. The names and addresses of all persons whom the party believes may have relevant knowledge and the nature of the knowledge or information each such individual is believed to possess;
5. The names and addresses of all persons who have given statements, whether written or recorded, signed or unsigned, and the custodian of the copies of those statements;
6. The name and address of each person whom the disclosing party expects to call as an expert witness at trial, the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, a summary of the grounds for each opinion, the qualifications of the witness and the name and address of the custodian of copies of any reports prepared by the expert;
7. A list of documents (and tangible evidence) including, as to each item, its location, custodian, and general description, that the disclosing party plans to use at trial and the date(s) upon which those documents will be made, or have been made, available for inspection and copying. Unless good cause is stated for not doing so, a copy of each documents listed shall be served with the disclosure. A party who produces documents for inspection shall produce them as they are kept in the usual course of business.

The parties are under continuing obligation to update and/or amend disclosures whenever additional information becomes known. Such supplemental disclosures shall be made no more than thirty days after the information is revealed or discovered by the disclosing party and no later than sixty days before trial.

SETTING THE CASE FOR TRIAL

Either party may file a List of Witnesses and Exhibits when they deem it appropriate to move the case to trial. After a party files his or her List, the other party has twenty days within which to file their List of Witnesses and Exhibits. After the expiration of the twenty days, either party may file a Motion to Set and Certificate of Readiness. This document is the Court's directive to set the matter for trial.

A Motion to Set may only be filed after both parties have exchanged disclosure statements, completed discovery (investigation, financial analysis, counseling, etc.) and have filed or had the opportunity to file their List of Witnesses and Exhibits. If a Motion to Set is filed prematurely, the other party may file a Controverting Certificate to set aside the Motion and permit discovery to continue.

PRE-TRIAL CONFERENCE AND TRIAL

The Trial of the case is normally set approximately three (3) months after the filing of the Motion to Set and Certificate of Readiness. The Pre-Trial Conference, which is heard before a Judge Pro-Tem, is usually set approximately one (1) to two (2) weeks prior to the date of the trial.

At the time of the Pre-Trial Conference, the parties must complete what is known as a Joint Pre-Trial Statement. This document must set forth all contested and uncontested issues; each party's position on the contested issues; a list of the witnesses and exhibits each party intends to call at the time of trial; a statement that all pretrial discovery procedures have been completed; a good faith settlement statement; the time required for trial; and completed Affidavits of Financial Information by each party. In the event property is at issue, each party must also complete an "Inventory of Property in Domestic Relations Action".

In the event the parties are unable to resolve all issues at the Pre-Trial Conference, the case will proceed to trial as scheduled. Prior to the trial, each party must

provide the other with copies of all exhibits they intend to introduce. At the trial, the Judge will hear all testimony and review the evidence submitted by the parties. The Judge will then take the matter under advisement and issue a ruling on all disputed matters.

PETITION FOR CONCILIATION

Either party may file a Petition for Conciliation before or after filing for dissolution. This is a free counseling service and either party may bind the other to counseling and a "cooling off" period of sixty (60) days by filing for Conciliation proceedings. (Forms are available at the Clerk's office or at the Conciliation Court). If a Petition for Conciliation is filed after a Petition for Dissolution is filed, all proceedings in the domestic relations action are stayed for sixty (60) days with the exception of any pending Pendente Lite hearings or hearings on an Order of Protection. If a Petition for Conciliation is filed prior to the filing of a Petition for Dissolution, the parties are precluded from initiating a dissolution action within the sixty (60) day time period. The stay of proceedings may be extended past the sixty (60) days upon agreement of the parties or the Court's own motion.

POSSIBILITY OF POSTPONEMENTS

Pendente Lite Orders to Show Cause are usually heard by a Court Commissioner and are usually heard on schedule.

Order to Show Cause and Trials set to be heard before a Judge are often postponed one or more times. This depends upon the disposition of other cases on the Court calendar for the day of the hearing. Nevertheless, you must be ready to proceed. (If you are not ready, with your luck the Court will have no conflict on its calendar that day and will proceed with the trial or hearing as scheduled). If you are bumped, you are designated at the next hearing as a "must go". Your chances of having your hearing the next scheduled day are excellent.

POST DISSOLUTION

MODIFICATION OF CUSTODY, VISITATION, SUPPORT OR MAINTENANCE

A hearing on Order to Show Cause Re: Modification of a prior Order is normally scheduled forty-five (45) to sixty (60) days after being signed (issued). It must be heard by a Judge unless the Decree was signed by a Commissioner and never modified by a Judge.

In seeking to modify support or maintenance, the moving party must file an Affidavit of Financial Information with the Petition. Certain Judges prefer to use the old form of Comparative Spouse's Affidavit which sets forth a party's financial circumstances at the time of the Decree or last formal order and at the present time. Prior to submission of the Petition and accompanying financial affidavit, you should contact the Judge assigned to the case and inquire which format he prefers. This will prevent your being unprepared at the time of hearing or having your initial documents rejected. The responding party must also file a similar financial affidavit with the Court, providing the moving party with a copy, no later than five (5) days prior to the hearing on Order to Show Cause. The moving party is required to serve a blank of the correct form of affidavit along with the Petition and Order to Show Cause for modification.

In seeking to modify custody, the moving party must file the following documents:

1. Petition Re: Modification of Custody;
2. Order to Show Cause Re: Modification of Custody;
3. Notice of Hearing Pursuant to A.R.S. §25-339;
4. Detailed Affidavit by the moving party supporting his/her grounds for modification;
5. §8-409 Affidavit.

Depending upon the Judge, a brief hearing will be scheduled approximately four (4) to six (6) weeks after the filing of the above documents. This hearing is approximately fifteen (15) minutes in length and is strictly for the Court to determine whether there are sufficient grounds to set a full evidentiary hearing. If such grounds are found, the Court will set an Order to Show Cause Re: Modification of Custody. Certain Judges have a policy of ruling pursuant to A.R.S. §25-339 strictly by a review of the pleadings filed and therefore

eliminate an actual §339 hearing. For this reason it is imperative your Petition and supporting Affidavit are as detailed as possible and contain all the facts you wish the Court to consider.

CONCILIATION COURT

In cases of custody disputes or modification of custody and visitation, either party may request a custody study by the Conciliation Court or a private counselor. If neither party requests such an evaluation the Court will, on its own motion, order the parties to submit to Conciliation Court for such study prior to the date of the Order to Show Cause hearing.

Where a Petition for Contempt regarding visitation problems is filed (or petitions for contempt for failure to pay support with underlying problems regarding visitation), the Court will normally order the parties to Conciliation Court in an attempt to have the parties resolve the problems. The counselor may recommend a Conciliation Court study which recommendation will normally be followed by the Court.

WHAT DOES "NO FAULT DIVORCE" MEAN?

"We should return to the days before no fault divorce", the woman declared angrily. "Now it's too easy for men to leave their families. If we didn't have no-fault, children wouldn't be ripped apart by warring parents. It's because of no-fault that women don't get alimony like they used to".

Many people share the caller's opinion on no-fault divorce. And, just as no-fault legislation is blamed for wholesale splitting of families, so it is misunderstood as a panacea for resolving differences, according to local lawyer Melvin Sternberg.

Basically, no-fault divorce allows partners to dissolve a marriage without the necessity of besmirching each other and dragging witnesses into Court to swear to accusations of another's shortcomings. In essence, no-fault means the marriage is irretrievably broken -- even if one partner thinks so and the other one does not.

The blame-eliminating legislation was enacted in 1973 in Arizona, making it one of forty-eight (48) states to have some form of no-fault divorce.

There is confusion in the mind of the public on what no-fault is and, even more important, what it is not.

I received a phone call from a husband of one of my clients. A sizable property settlement was involved. The husband remarked, "I don't need a lawyer to settle this because this is a no-fault state".

People do not realize that basic issues are not automatically taken care of without discussion.

No-fault does not mean no-fight. People may not be fighting about grounds (for divorce) anymore, but they are fighting about everything else. The only difference is you do not have to have a witness come in to corroborate some grounds for divorce.

Perhaps one reason no-fault came into favor is that trying to prove grounds of divorce is similar to finding where a circle ends and where it begins.

Is a woman sexually cold to her husband because he is insensitive or, is he insensitive because she is sexually cold? Who started the action that caused the reaction? There is no telling.

A return to the days before no-fault would only increase lawyers' fees and add to the already clogged dockets in the Courts.

As to the belief that no-fault makes it easier for a partner to walk out of the marriage, despite the wishes of the other partner to save that marriage, that is not true either.

There is no way, then or now, to keep a partner from leaving a marriage if the person really wants to go.

WHAT INFORMATION DOES YOUR ATTORNEY NEED?

Lawyers charge by the hour. Every minute a lawyer spends on your case amounts to dollars. Why not practice a little consumer savvy and perform some of that work yourself?

Rather than relying completely on your lawyer, you can accomplish certain tasks that will take dollars off your total fee.

These are not complicated tasks, and any of them are common-sense procedures.

To begin: When you first visit your lawyer concerning a divorce or separation, there is certain information concerning property issues the lawyer must have. If you bring all this along, with everything itemized, the lawyer will not have to chase it down. The information includes:

- Your most recent payroll stubs. (Your spouse's too, if available.)
- A listing of bank accounts, both checking and savings, including balances and who is the authorized signer on the accounts.
- A determination of your monthly living expenses: Include rent on mortgage, utilities, groceries, clothing, medical, dental, automobile, child care, recreation and credit card payments. To get a monthly average, go back through check stubs for at least six (6) months.
- Accurate records on debts, stating current balance due and monthly payment. Include automobile loans, credit card payments, bank loans and other debts. Be sure to list every debt you have.
- Copies of deeds to all real estate and titles to automobiles. On the real estate, bring documents pertaining to the date of purchase and your costs.
- As much information as possible on retirement plans for both parties, plus life insurance and medical plans.
- List of investments: stocks, bonds, mutual funds, money market funds and other investments.
- Copies of tax returns for the last three (3) years.

This information should be copies of original documents. Leave the copies with the lawyer and keep the originals in a safe place.

If there is to be a custody battle, your lawyer will want to have a complete list of witnesses who will be able to confirm your belief that you should have custody and a brief statement of what they will say.

When the case is close to trial, help the lawyer determine the current market value of your assets. For example, call you banker to get high and low book prices for automobiles. Make a complete list of furniture, marking each piece's value and whether you want you or your spouse to have it.

It is important to get current market value as close to the trial date as possible. If a couple separated two (2) years ago and the case is just coming to trial, the value of automobiles and homes may have changed dramatically.

A client should not call a lawyer constantly. At the outset, a client should request that the lawyer furnish copies of all pleadings filed and correspondence in his case. That way, he/she is continuously updated and the need for excessive calls diminishes.

When you do call, have a list prepared of questions you want to ask your lawyer. If your questions are lengthy and complicated, thus requiring a meeting, less time will be consumed if you prepare your question list.

Clients should avoid getting into arguments with spouses, then calling their lawyers and saying "Spouse threatened so-and-so and what should I do?" Those phone calls are very expensive. Avoid arguments with spouses.

Additionally, clients should not use their lawyers as psychologists. They not only are unqualified to deal with emotional problems, but it adds to the fee. Mental health experts do a better job for less money.

The lawyer's last suggestion is to obey Court orders. If you do not, the result is more calls and letters between opposing lawyers and more Court appearances. This means more fees.

When a party is ordered to pay a sum by a certain date, he/she should pay it. If a party is ordered to give visitation, he/she should give it. Not obeying Court orders is one of the biggest time wasters and, getting into fights with your spouse is the other. These both amount to game-playing.

Finally, ask yourself what your lawyer should be doing for you.

The lawyer should be using his efforts to get a fair settlement, not to teach someone a lesson. Lawyers should not be used to get revenge. Their job is to promote your case.

Clients should be reminded of the laws against adultery and, they should be advised that their activities should not be flaunted.

Improprieties can get a Judge upset, cost you money, and possibly custody.

A living-together arrangement can also influence the amount of money one party either receives or has to pay.

For example, if the man in question had home and utility payments of \$800 a month, would the girlfriend be expected to contribute at least half of this? If the Judge says yes, then his \$800 monthly expenses would be reduced, thus releasing more income and enabling a larger payment to his wife for maintenance or support. And, if the girlfriend is working, would her income be included when determining the ability of the man to pay maintenance and/or support?

There is no law on this, but my opinion would be yes to both questions.

THE TRUE VALUE OF YOUR ASSETS

A. After Tax Values.

Some assets are very easily -- and equitably -- valued.

Assets that are not so easily valued can present a problem when dividing community property. For example: cash, stocks and bonds and money-market funds.

Real estate, automobiles, businesses, furniture and retirement plans are sometimes more difficult to value.

Take real estate. A couple owns two (2) identical undeveloped lots in downtown Phoenix. One was purchased in 1960 for \$10,000 cash while the other was obtained in 1980 for \$85,000 cash. Each lot is now worth \$100,000.

Giving the husband the 1960 lot and the wife the 1980 lot appears equitable but, the land is not of equal value. The party receiving the 1960 land has a potential taxable gain of \$90,000. The other party has a potential taxable gain of only \$15,000. If they are in the thirty-three percent (33%) tax bracket, the party receiving the 1980 property would, upon sale, have a \$5,000 tax bill and the one with the 1960 land would have a \$30,000 tax bill.

For a person going through a divorce, it seems a bit much to have to think about the distasteful subject of taxes on top of everything else. Because the area is so complex however, it is a good idea to make sure your lawyer is well-versed on all aspects of divorce and tax law.

A lawyer has to keep an eye on the tax consequences. Ostensibly, a couple may reach a fair and accurate settlement by agreement but, one ends up with a substantial, unexpected tax burden and the other has none.

Whether a certified public accountant should be called in depends on the amount of assets involved. With \$10,000 or \$20,000 it may not be necessary. However, with assets of \$50,000 or more, an attorney with knowledge of taxes, or an accountant, should examine the agreement to determine the immediate tax effect created by the division of property, in addition to any anticipated tax liability, that will occur at the time of the sale of assets received in that settlement.

B. Depreciation Affecting Value.

Furniture can be a problem, especially if the settlement involves business furniture and equipment. Example: A man buys office furniture in 1980 for \$10,000 and puts it on the corporation's books. He is allowed to write off the furniture at

twenty percent (20%) a year for five (5) years, so now the corporations' books say the value of this furniture is zero.

If the wife has a sharp attorney, he will look beyond the corporation's books and ascertain the condition of the furniture and its replacement cost. Assuming the replacement cost is \$15,000, he might urge the Court to use that figure as its value. Neither position is accurate. The true value lies somewhere in between the two (2) figures and most accurately can be determined by an appraisal.

Retirement Plans. The 1981 Arizona Supreme Court ruling, Johnson v. Johnson, said that a retirement plan should be divided by figuring out the present value of the plan and awarding a lump sum to the non-employee spouse, if the rights can be valued accurately and this lump sum can be awarded without undue hardship to the employed spouse.

If this does not apply, the non-employee spouse would get fifty percent (50%) of the community interest of the employed party's rights in a retirement plan, if and when it was received. Example: To get full retirement, a man has to work twenty (20) years. The marriage lasts only ten (10) years therefore fifty percent (50%) of the retirement benefits belong to the community (the marriage) and fifty percent (50%) solely to the employed spouse. The non-employee spouse has a twenty-five percent interest in the retirement benefits. If the subject retirement plan is governed by ERISA, a qualified domestic relations order must issue in order to insure the non-employee spouse receives the benefits due him/her upon retirement of the employee spouse.

Automobiles. It is necessary to obtain comparative values rather than just give one car to husband and one to wife -- even if the cars appear to be equal. Retail prices in the Kelly Blue Book are a dream. Sophisticated buyers ignore retail book values. The wholesale book is more accurate but raises problems. Certain cars may bring low book today and two (2) weeks later may bring twenty-five percent (25%) less than Kelly Blue Book. Like the stock market, car prices may vary from week to week.

The best way to obtain an accurate valuation of an automobile is to have the vehicle appraised or, have a reputable dealer offer to purchase it. I believe whatever a car dealer is willing to give you is the real market value of the automobile.

Goodwill. Goodwill is an intangible asset. It is created by name recognition, reputation, customer patronage, location, products and service, and other factors not separately identified in an appraisal. While not separately identified, these factors generate economic benefits for the business entity. Goodwill can be commercial, personal, or a combination of the two. Commercial goodwill is part of the business, usually part of the

location, reputation, product, prices, policies, etc. Personal goodwill is created by an individual, like a successful salesman or a skilled manager, and leaves the business with the individual.

The goodwill of a professional practice may or may not have value. It could be treated as property upon dissolution of the community, regardless of the form of business.

An experienced attorney, with the aid of a competent business appraiser, is needed to determine whether a business or profession has goodwill. GOODWILL IS OFTEN THE MOST VALUABLE ASSET OF THE COMMUNITY.

C. Spousal Maintenance and Child Support Aids.

When it comes to spousal maintenance and child support, a "spread sheet" should be done to ascertain the accuracy of claims. Expenditures for each month of the previous year are tallied by listing all checks written during that year and categorizing them by the nature of the expenditure. A person may say \$550 a month is needed for groceries but the spread sheet may indicate that during the year an average of only \$300 a month was actually spent.

Lawyers asking for support should go through the same process so their client will not look foolish. By using a spread sheet, a Judge is able to get an accurate picture of the parties' finances which expedites the handling of the case.

DIVORCE AND TAXES

A. Child Support.

Pursuant to the Maricopa County Superior Court Guidelines, the allocation of the federal tax exemptions with regard to the minor child(ren) should as closely as possible approximate the percentages of support being provided by each of the parents. This allocation is conditioned upon the Obligor being current with his/her child support obligation as of December 31st of the calendar year for which the exemption is to be claimed.

This does not preclude the parties from waiving any rights to the exemption in a settlement agreement.

Child support is non-taxable to the recipient and taxable to the payor.

B. Spousal Maintenance.

Spousal Maintenance is included in the recipient's income for tax purposes and deductible from the payor's income.

Payments must meet all of the following requirements in order to be considered as spousal maintenance, to be deductible by the payor and includable in the income of the payee:

1. The payment must be made in cash (as opposed to property).
2. The payment must be received by or on behalf of a spouse under a divorce or separation agreement.
3. In the case of spouses legally separated under a decree of divorce or separate maintenance, the spouses must not be members of the same household at the time the payment is made.
4. The parties must not designate the payment in the instrument as not being spousal maintenance for federal tax purposes.
5. Payment must terminate upon the death of the payee spouse and there must be no liability to make any payment (in cash or property) as a substitute for such payment.
6. The spouses must not file a joint return with each other.

C. Legal Fees.

Legal fees are deductible only for tax advice involving divorce, not for the divorce itself. The amount claimed must be allocated. Fees incurred in obtaining spousal maintenance or collecting past-due spousal maintenance are deductible, but not fees incurred for obtaining or collecting child support.

D. New Payroll Deductions.

Being divorced does more than change your social status. Uncle Sam regards you in a different light as far as tax purposes are concerned.

If you obtain a divorce in 1993, you must file a new W-4 form. This form notifies your employer that you are no longer married and the number of your exemptions has changed. Because you are a single person instead of a married person, the amount of tax withheld will be higher.

In the event you are the party paying spousal maintenance, the amount you are paying can lower your gross income for tax withholding purposes.

For example: Your gross monthly income is \$2,000 and you are paying spousal maintenance of \$500 per month. You can request that your employer withhold federal and state taxes on the basis of \$1,500 rather than \$2,000.

ARE YOU ENTITLED TO SPOUSAL MAINTENANCE?

Determining Spousal Maintenance. The Court will consider the following factors:

A. In a proceeding for dissolution of marriage or legal separation, or a proceeding for maintenance following dissolution of marriage by a Court which lacked personal jurisdiction over the absent spouse, the Court may grant a maintenance order for either spouse if it finds that the spouse seeking maintenance meets any of the following criteria:

1. Lacks sufficient property, including property apportioned to such spouse, to provide for his or her reasonable needs;
2. Is unable to support himself or herself through appropriate employment or is the custodian of a child whose age or condition is such that the custodian should not be required to seek employment outside the home or lacks earning ability in the labor market adequate to support himself or herself;
3. Contributed to the educational opportunities of the other spouse;
4. Had a marriage of long duration and is of an age which may preclude the possibility of gaining employment adequate to support himself or herself.

B. The maintenance order shall be in such amounts and for such period of time as the Court deems just, without regard to marital misconduct, and after considering all relevant factors, including:

1. The standard of living established during the marriage;
2. The duration of the marriage;
3. The age, employment history, earning ability and the physical and emotional condition of the spouse seeking maintenance.
4. The ability of the spouse from whom maintenance is sought to meet his or her needs while meeting those of the spouse seeking maintenance;
5. The comparative financial resources of the spouses, including their comparative earning abilities in the labor market;

6. The contribution of the spouse seeking maintenance to the earning ability of the other spouse;
7. The extent to which the spouse seeking maintenance has reduced his or her income or career opportunities for the benefit of the other spouse;
8. The ability of both parties after the dissolution to contribute to the future educational costs of their mutual children;
9. The financial resources of the party seeking maintenance, including marital property apportioned to such party, and such party's ability to meet his or her needs independently;
10. The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment and whether such education or training is readily available.