# Separating Business Assets in a Divorce: Separate vs. Marital Property

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Separating the assets involved in a divorce is a complex process that can be overwhelming to many. It's more difficult when these assets are related to a business.

Laws related to the valuation and division of property vary between states. That's why it's critical that you consult with a skilled family law attorney in order to protect your business and personal assets in a divorce.

The following helps you understand how to put the right legal strategies in place to secure your financial wellbeing.

## Georgia Divorce and Property

The most important factor in the division of marital assets is the classification of those assets by the courts.

In Georgia, "separate" property consists of assets that were acquired before the marriage. Any assets that were obtained during the marriage is considered to be "marital" property.

Marital property is subject "equitable division" under Georgia state law while separate property remains with the original owner. But separate property can still be at risk if it's been commingled with marital assets.

This is common in divorce cases that involve businesses. Examples of separate property include real estate, retirement accounts, inheritance, and personal belongings.

Money acquired before the marriage through an inheritance or gift may have been used to fund a business. This makes it difficult to determine which assets are protected and which ones may be at risk.

## Separating the Business Property

The ways in which business property is separated during your divorce depends on many factors. The courts need to analyze your property be looking at the date and manner in which it was acquired.

The contributions of each party are also evaluated. In some cases, one spouse may have introduced separate property into the business, and the other spouse may have contributed some improvement to that property.

This can also be considered when making decisions related to alimony. Separate property may be used to contribute to spousal support payments if the courts have reason to do so.

Even in cases where one spouse fulfilled the role of a homemaker, the courts can view that as a contribution to the marriage, further influencing any decisions related to the separation of property.

Equitable division doesn’t mean that assets are equally divided. So courts must also determine how much will be awarded to each party depending on the circumstances of each case.

**Protecting Business Property in a Divorce**

The easiest way for spouses to protect their property is through a prenuptial agreement. Through this agreement, assets can be categorized as marital and separate property before the marriage.

But having a prenuptial agreement doesn’t guarantee that your business assets are protected should you and your spouse decide to divorce.

If you have an agreement in place, consult with your attorney to determine the best way to ensure that your assets are fully protected.

If no agreement has been made, then you should maintain accurate records in order to establish how assets have been acquired.

Your financial records can help demonstrate how these assets were used so that the courts can properly classify them when determining which assets are subject to equitable division.

Spouses should avoid the commingling of property in a business whenever possible. Existing individual accounts should remain with each party while new shared accounts can be created whenever assets need to be combined.

Consulting with a family law attorney should be the first step in protecting your business and personal assets in a divorce. Understanding how Georgia treats separate and marital property helps you protect your business and your financial future.