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Getting the Legal Protection You Need from Taxes in A Divorce

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There are many things to consider in your divorce. This makes the process one of the most difficult when it comes to protecting your finances and ensuring that you and your spouse reach a fair agreement.

The tax implications of divorce are often overlooked by many people as they move through their divorce proceedings. Decisions related to alimony, the transfer of assets, and deductions are all impacted by tax issues.

Getting the legal protection you need against taxes in your divorce is the first step to securing your financial wellbeing. Your family law attorney can guide you through the complex and lengthy issues related to taxation.

Tax Filings: Joint or Separate
Many divorcing couples aren't sure if they should file joint or separate tax returns. Couples who are divorced at any time of the year need to file separate tax filings for that year.

If the divorce was finalized after the tax year ended, you have the option of filing a joint tax return or filing as "married filing separately".

A joint filing saves couples money on their tax returns, but it can also force you to share any liabilities.

In addition, filing jointly allows couples to claim a number of benefits including deductions for student loan interest, earned income credit, and child and dependent care credit.

Couples filing under the "married filing separately" status don't qualify for these tax benefits.

Tax Deductions for Legal Fees

Divorcing couples looking to protect their assets from taxes need to consider their legal fees. Although attorney fees are classified as personal expenses and aren't tax deductible, there are some legal expenses that may be deducted.

Expenses that result from managing and maintaining income-producing property may be deducted from your taxes. Fees related to the collection or refund of any tax may also be deducted. This includes costs associated with the process of determining your tax liability or refund.

Consulting with a family law attorney or an experienced accounting professional helps you understand the rules related to the deduction of legal fees incurred during the tax year.

Legal Protection for the Transfer of Property

Divorcing couples must be aware of the costs that may be associated with the transfer of property.

In regards to legal protection from taxes during your divorce, the property that's transferred from one party to the other is viewed as a gift and doesn't result in any taxation.

The transfer must be made as a direct result of the divorce in order to avoid the recognition of gains or losses as they relate to your taxes.

Transfers that are classified as "incident to divorce" are those that are made within the first year after the divorce has been finalized.

The transfer of property can also be deemed "related to the cessation of marriage" if it occurs within six years after the divorce.

Understanding the rules related to the transfer of property helps you avoid tax liabilities as long as you complete them within the allowable time periods. But once the property is sold, it will be considered as a gain and taxed accordingly.

The following are other areas that must be considered with seeking legal protection from taxes in a divorce:

Alimony
Child support
Division of property
Mortgage interest
Child dependency

Periodic alimony will be viewed as income to the individual receiving spousal support. But it results in a deductible expense for the spouse who is providing that support.

Child support can't be deducted from taxable expenses, but it isn't viewed as income to the spouse receiving child support.

A dependency exemption can be claimed by the spouse who has the larger share of custody. Spouses may agree to share this exemption if they choose, but the courts cannot award it to the spouse who has less than 50 percent of custody time.

Your family law attorney can guide you through the process of protecting your assets from taxes in a divorce.

Reducing or eliminating your tax liabilities saves you money during your divorce proceedings. You'll complete your divorce with the protection you need to create a secure financial future.