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Divorce and taxes: 4 tips for managing the 2016 tax season

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**Posted on** March 16, 2016

**Categories** Practice Management

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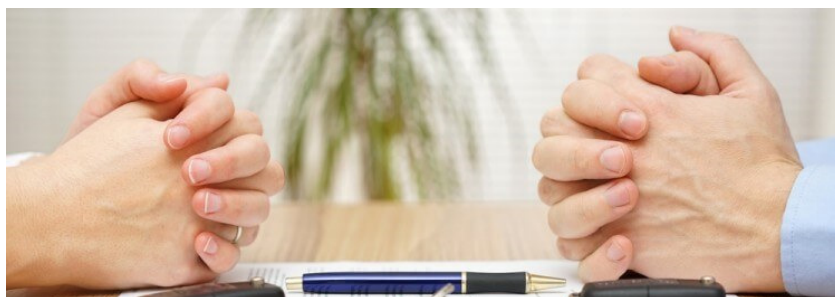
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April will be here before we know it, and that does not only mean showers that bring May flowers; it also means the deadline for filing taxes. This year, the deadline has been extended from April 15 to April 18, but even so, that date is approaching quickly.

For those going through a divorce, filing taxes becomes even more complicated. Now, not only does one have to consider the usual income, exemptions, and deductions, etc., but one also has to shoulder the added burden of determining filing status, who gets what deduction, etc. All of this requires some element of agreement between parties who are probably not inclined to agree on anything.

Considering the potential complications, knowing possible tax-related issues that arise when there is a divorce goes a long way in bringing confidence and organization to the process. The tips below will help identify issues that often cause the most problems:

**1. Determining filing status.** One of the most confusing tax-related issues for divorcing parties is determining what status they should use when filing. To decide whether parties should file as “married filing jointly,” “married filing separately,” or “single,” they must determine their marital status on



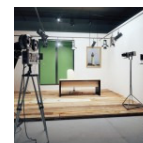
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December 31 of the tax filing year. If they are still married, they cannot file “single,” but they can file jointly or as “married filing separately.” Most married couples who are still together file “married filing jointly” because doing so is often economically advantageous. However, this may not be the most beneficial status when parties are separated. This is especially true if there are questions regarding one party’s income—if, for example, one party is self-employed. Signing a joint tax return usually indicates that both parties have agreed upon the reported numbers, and unless both parties know for sure that the numbers are accurate, they should not sign a joint return. “Head of household” is another status that is available to both those who are married and unmarried, but it is dependent on custody of a child, support, and living apart from the other party for at least the last 6 months of the tax filing year.

**2. Allocating dependency exemptions.** Another area that can cause issues is the allocation of dependency exemptions for dependents of the parties, usually their minor children. This arises when the parties choose to file separate returns. The party with primary custody of the minor child or children has the right to claim dependency exemption for that child. However, a form can be signed permitting the other party to take the exemption. A court can also determine the allocation of dependency exemptions. If there is only 1 dependent, the parties can even

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**3. Allocating deductions.** Like dependency exemptions, legitimate tax deductions, such as deductions for mortgage interest or real estate taxes, sometimes need to be allocated between the parties. Reviewing the overall economic benefit to both parties is often a good way to determine how deductions should be allocated, if at all. When it comes to claiming deductions, no party should act hastily or out of spite, especially if the other party would incur increased taxes as a result. This strategy could also create further problems in support litigation down the road.

**4. Reporting or deducting support payments.** In a divorce situation, one party is often paying to support the other party or minor children. Child support is not considered income to the person receiving the benefit nor deductible to the person paying it. Spousal support may be included as income to the person receiving the benefit and deductible to the person paying it, especially if it is provided for by the terms of a court order. If it is being paid voluntarily without the benefit of a court order, it is probably not includable or deductible.

While these tips highlight some important issues, parties should meet with their tax advisors to

determine the best course of action in their particular circumstance. When considering how to file taxes while going through a divorce, the most important takeaway is to discuss the various issues with the other party (perhaps through legal counsel) before acting too hastily. Neither party will benefit if an audit occurs, and, while you may not be able to cooperate as a married couple, an economic benefit is usually available to parties who cooperate where taxes are concerned.