Graying Divorces: What Boomers Need to Know to Protect Their Assets

by Andrea Murad

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With retirement just around the corner, many baby boomers are going through another major life change: divorce.

The overall divorce rate in the U.S. sits around 50%, and in 2009, one in four of divorces were among baby boomers--an increase from one in 10 in 1990, according to research conducted by sociologists Susan Brown and I-Fen Lin of Bowling Green State University.

The divorce process can provide financial hardships and paperwork headaches at any age, but the financial issues become more complex when retirement funds play a larger role in proceedings.

“Everyone who gets divorced is worse off financially,” says Randy Kessler, founding partner of Kessler & Solomiany.

Splitting assets with retirement only a few years away can complicate the process, and experts advise boomers work with mediators, lawyers, and financial planners to create a favorable settlement from a tax and retirement perspective.

“Not all assets are created equally, and not everyone in a divorce knows what to ask for,” says Suzanna de Baca, vice president of wealth strategies at Ameriprise Financial. Understanding what you need and how to divide assets can make this process easier.

“Divorces are hugely expensive, and both of you want to walk out with as much as you can,” says Tracy Stewart, certified public accountant and personal financial specialist in College Station, Texas.

Create a financial plan. “It’s very important for people going through divorce to not lose sight of the long-term when focusing on the short-term,” says de Baca. These goals need to be addressed simultaneously in a financial plan.

The Great Recession has had a dramatic impact on most people’s assets. “The biggest concern is that, in many cases, they didn’t have enough to make it work with the two of them,” says Scott Halliwell, certified financial planner at USAA. “Splitting it down the middle makes it worse.”

When you make a financial plan, you’ll better understand your retirement assets and when you can retire. This may mean cutting back on expenses, working longer, or changing retirement plans

“You have to think about taking care of yourself now and in the future and making those trade-offs,” says de Baca.

Think Long Term. The divorce process is already emotional, but complicated financials can make it even more dramatic.

“The shock of economic coping fuels some of the fear and anger in a divorce,” says sociologist Pepper Schwartz, sex and relationship expert for AARP. One spouse may have earned more than the other, which can create a challenging situation for the spouse who didn’t earn as much. The spouse without a career may have to work to be able to save for long-term goals and retirement. Depending on your situation, “it’s not a bad time if you haven’t had a career, to go to a [career] counselor, or if you’re going to lose a lot of money, to go to a financial planner,” she says.

Determine your budget. Listing your expenses and the cost to maintain your desired lifestyle as a single person will give you a realistic idea of your new budget. “You really need to think about your daily expenses because you can’t save money for retirement or other long-term goals or keep your savings if you’re spending more than you have coming in,” says Halliwell.

The first step to creating a budget is evaluating your cash situation. “Figure out your sources of income and how divisible these are, including salary and spending habits,” recommends Schwartz. “Try and think of what your partner needs and your fair obligation to them.”

Sometimes, when couples wish to remain friends they work together on their goals. “Couples come up with individual and joint goals but in gray divorces, the goals tend to include financial comfort for each party,” says Stewart. When this happens, one person’s less likely to grab the money and run.

Protect yourself. “Look out for people wiping out accounts or people taking loans against assets,” warns Kessler. “You want to make sure the money’s preserved.” He suggests sending letters to banks and asking for alerts if there are any changes to your accounts, like names removed or large withdrawals. If you hold anything in safety deposit boxes that your spouse can access, store these items elsewhere.

To prevent your spouse from selling your home before the divorce is final, Kessler suggests filing a lis pendens. This notice is filed in your real estate records and informs anyone looking to buy your property that it’s part of a pending divorce settlement.

Know what you’re entitled to. Experts agree that dividing property can be a challenge, but it’s important to think about what you need. “You’re entitled maybe to half of each account or asset, but it may not be in your best interest to take half of each account or asset,” says Stewart. “It may be in your best interest to make tradeoffs.”

If there are retirement accounts and a pension plan with the same value, one solution can be for one spouse to take the cash while the other gets the pension plan depending on each person’s goals. The spouse who works may want to give up savings for other assets as they have more earning and savings potential to replenish these accounts.

People should consider the pros and cons of keeping an asset. “It’s very typical for women to retain the family home in a divorce, but real estate doesn’t always appreciate and there’s a lot of maintenance required,” says de Baca.

Alimony can facilitate an advantageous settlement for both parties, says Stewart. If one spouse is a spendthrift, they’re more likely to live within their means if given a monthly check instead of savings. The spouse paying alimony receives a tax deduction.

For couples married at least 10 years, the ex-spouse is entitled to Social Security retirement or disability benefits and can begin to collect at 62, according to IRS regulations. If the working spouse hasn’t retired yet, then they may be able to receive benefits on the working spouse’s record if the couple has been divorced for at least two years.

Risk management. Experts recommend reviewing documents that may be in both people’s names, like wills and insurance policies for auto, home, life, and disability. “Look at each policy and reevaluate whether it should be joint or put in your own name,” says de Baca. For life insurance policies and savings and retirement accounts, she suggests changing beneficiaries if that’s what you want.

If you are on your spouse’s health insurance policy, experts recommend looking for a policy that provides similar coverage early in the divorce.

“One of the things to remember, unfortunately divorce is more common at all ages but other people are going through it and you don’t have to reinvent the process,” says de Baca. “While you may feel very alone, there are teams of people, professional and in your community, that will help you be okay as you go through this process.”