
MATRIMONIAL

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HIDDEN ASSETS IN DIVORCE

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At some point during every divorce, there comes a time to value the marital estate. Sometimes identifying the assets is more difficult than the actual valuation. Obvious assets include the marital residence, joint bank accounts, retirement and investment accounts, and possibly a business interest. However, there are also “hidden” assets that may be overlooked, undervalued, or disguised:

Transferred assets

The most common way to hide assets is through a “sale” or gift to family members or trusted friends with the understanding that the property will be reclaimed after the divorce is finalized.

Keep in mind that jewelry collections, antiques, artwork, hobby equipment, and collectible items can have substantial value and are easy to hide. Also, cash can be converted to traveler’s checks or money orders to avoid being included in joint bank accounts.

Prepaid expenses

One common asset-hiding technique is the prepayment of large expenses prior to the date of commencement. These big-ticket expenses could include property taxes, insurance premiums, season tickets, timeshares, dues, and membership fees. Also, income tax refunds from the prior year can be substantial for owners of S Corporations with declining earnings.

For small business owners, prepaid expenses can result from over-paying legitimate vendors and not recording subsequent refunds. For cash-basis tax payers, the prepayment of expenses will also artificially reduce profitability.

Deferred assets

Accrued vacation pay, frequent flyer miles and credit card membership reward points earned during the course of the marriage are often overlooked. Your spouse may also attempt to delay the timing of bonuses or incentive pay in order to exclude them from negotiations.

Phony transactions

Business owners have the opportunity to skim money by “paying” ghost vendors and later voiding the checks.

The search for hidden assets can be time consuming and frustrating, especially if you’re unsure where to start. A qualified forensic expert can assist in locating assets, tracing income, and providing valuable testimony at trial and during settlement negotiations.

If you have concerns that your spouse may be hiding or disguising assets, immediate action is necessary. The more time that passes may mean less access to documentation and records that would substantiate your claim to these assets. Fortunately, you have certain rights and access that only a spouse has. No one else is privy to current and dated correspondence, bank records, credit card statements, personal property tax bills, or government records. Preserve all of the records you can, even if you don’t understand their usefulness. There may be documents and financial records that exist only in electronic form.



A forensic computer examiner can find, preserve and present these records in order to determine whether income and assets have been fully disclosed. If a forensic expert is asked to analyze the financial records to determine a party's true income or to trace marital assets, examination of these documents could be critical:

- Insurance documents
- Internet surfing histories
- Credit reports
- Offshore/Canadian bank accounts
- Cellular phone bills
- Tax returns
- Personal computers
- IRS notices
- Laptop computers
- Safe deposit boxes
- Cellular phones
- Credit card receipts
- Text messages
- Credit card statements
- Emails
- ATM receipts
- Email addresses
- Bank statements
- Employment contracts
- Brokerage account statements
- Benefit statements
- Business accounting records

Many items of value will be listed on a general homeowners' policy, but may also come with their own insurance policies. Take the time to review these documents or discuss coverage with your agent. Not only will this help you itemize large marital assets, but a stated insurance value can be useful in negotiating a marital settlement or to assist in identifying assets which may warrant a current fair market appraisal.

Another effective way to identify hidden assets is by reviewing your spouse's credit report. Make sure you identify any unfamiliar accounts, as these could be an indicator of additional marital assets. If your spouse has opened a new primary bank account, you can easily find this information by writing him/her a check and then reviewing the clearinghouse information on the back of your canceled check. Your spouse's employer may be willing to give you information related to your spouse's direct deposit. Remember that bank accounts and assets held in minor children's names and social security numbers have been used to avoid detection and this information should be utilized in any public records searches.

Public records searches are also useful for identifying real estate and personal property holdings. The Department of Motor vehicles can provide information related to ownership and liens on automobiles, watercraft, motorcycles, and trailers. The FAA provides similar information related to aircraft. If you believe your spouse has an ownership interest in a business, you can verify this by accessing records through the Secretary of State. If your spouse has ever been arrested, criminal court records may include a financial worksheet used for bonding and public defender eligibility determinations. The criminal documents and pleadings are also public record and may contain important information.

Do not make the mistake of assuming your spouse is too honest to commit fraud. A healthy degree of skepticism could result in a more fair settlement of the marital estate.

