How Taxes Relate to California Divorce: Filing Status

There are four basic ways taxes have an impact on your California divorce: support, filing status, property division, and dependency exemptions. Here's a brief overview on what you need to know about your different tax filing options in divorce.

Your Options: the Basics

If you're in the middle of your divorce, you can choose to file jointly with your spouse as long as you are still legally married at the end of the tax year, December 31. You qualify for this tax filing status even if you are physically separated so long as there is no final court judgment terminating your marital status. In order to file a joint return, both spouse must *agree* to do so.

If you're in the middle of your divorce, have been physically separated for at least half the year, and have had at least one child in your care for over 50% of the time, you will likely also qualify to file your taxes as "head of household." Filing head of household will likely result in a lower tax rate.

If you're in the middle of your divorce, there is no agreement to file a joint tax return, and you do not qualify to file as head of household, you must file as married filing separately. Many people prefer to avoid this tax filing status because of its undesirable tax rates. Since California is a community property state, you will likely need to claim at least a portion of your spouse's income, even if you file separately. Therefore, it's very important for you to work with a good tax advisor in order to make sure you file your taxes properly.

Once your divorce is finalized, you may still continue filing as head of household so long as you qualify to do so. Otherwise you will be filing your taxes as single.

How Tax Filing Status Impacts Your Support During Divorce

One of the key factors in calculating temporary support during your divorce is your tax filing status. Your support will be significantly different if you're filing jointly as opposed to head of household/separately. Additionally, although spousal support is taxable income to the payee and tax deductible to the payor, in cases where parties are filing jointly, the inclusion/deduction of spousal support is a moot point.

It's important to understand the relationship between your tax filing status and the amount of support you pay or receive. These issues need to be looked at as a whole, as they are part of the big picture. In other words, just because you might receive more support if you file your taxes separately does not automatically mean you should choose to file separately. If you end up paying more in taxes and having a lower net income, the additional support ultimately provides you no benefit.

The Pros and Cons of Filing Jointly

As a general statement, your tax burden is usually lower when you file a joint tax return. Therefore, many couples choose to file jointly even in the middle of their divorce. Filing jointly often times is also easier, as you won't have to figure out how to divide the deductions such as mortgage interest, property taxes, and dependency exemptions. Before assuming that filing jointly is best for you, it's always best to work with a tax advisor to help you make the smartest financial decision for you.

Be aware that if you file jointly, you and your spouse are jointly and severally (equally) liable for that tax return. If your spouse has been known to historically take shortcuts with his or her taxes or owns a business, this risk may be too high for you to take for some tax savings. Additionally, in the event that you are audited, you may have to work together even years after your divorce has finished.

For specific examples of how your tax filing status impacts your support, contact us for more information.