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Taxes can get complicated when people get divorced

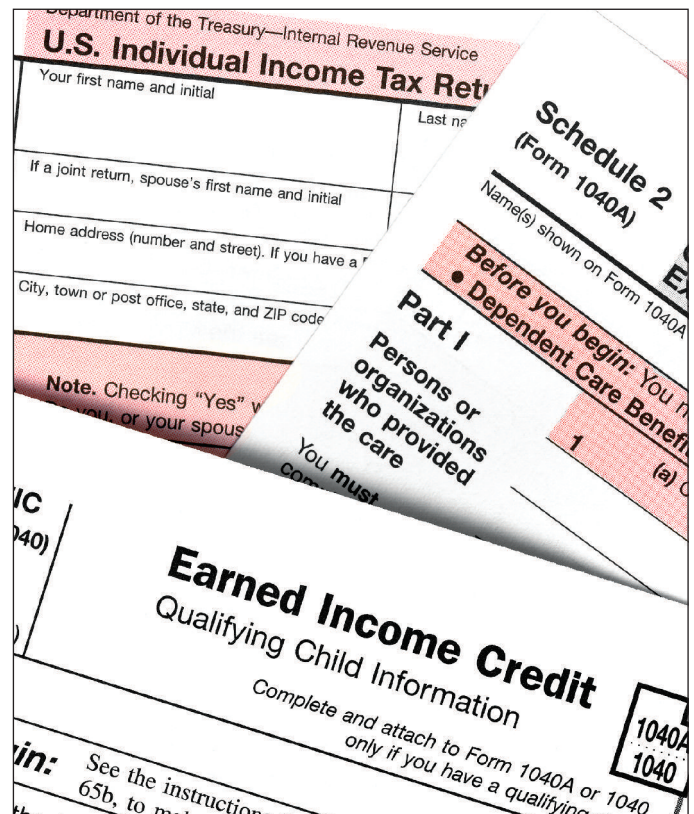
Divorce can involve a number of difficult issues, such as child custody, who gets the house, how other assets are divided, and how support and alimony are determined.

But one thing a lot of people don't realize is that taxes can also become very complicated when people get divorced. That's why it's always a good idea to seek advice from an attorney or other professional if you've recently split up. Even if you've always done your taxes by yourself, there are a lot of tricky issues after a divorce, and it's easy to make a costly mistake.

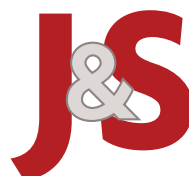
For instance, a key question is whether to file a joint return or separate returns. If your divorce has become final by December 31 of a given year, the IRS considers you as single for that entire year and you can't file a joint return – even if your divorce didn't become final until December 30! On the other hand, if your divorce isn't final on December 31, you can still file jointly – even if you officially divorce well before taxes are due on April 15.

Filing jointly can often save taxes, but if you're expecting a refund, you'll have to work out who will receive it and how it will be split. On the other hand, just because you *can* file jointly doesn't mean you have to. No one can make you sign a joint return; you

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Even though a game show contestant's wife was in the process of leaving him, she can split his prize.

'Wheel of Fortune' winnings are split at divorce

For many people, hitting it big on a game show epitomizes the American Dream. And losing half of it in a divorce sounds like the American Nightmare.

But that's exactly what happened to Scott Dole, who went on the show in 2009 and walked away with \$51,600 in winnings.

Dole's wife Carrie had filed for divorce in 2008. Nonetheless, she argued in

court that Dole's prize money counted as community property, and thus she was entitled to half of it.

A Washington state judge agreed. He found that even though Carrie had already filed for divorce when her husband appeared on the show, they were still living together as husband and wife at the time.

The judge also noted that Carrie traveled with Dole to the taping and stayed with him in the hotel.



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Perhaps she even cheered along each time Vanna White turned over a letter.

Carrie also testified that around the time of the taping, she had made efforts to dismiss the divorce petition.

But the couple separated again a month later, at which point Carrie renewed the petition and sought a share of the prize winnings.

Wife had to separate from husband before seeking support

A woman can't go to court and seek financial support from her husband if she's still living with him, the South Carolina Supreme Court decided recently.

The wife claimed she could no longer stand to live with her husband because of his abusive conduct and his total control of their finances. Nonetheless, she didn't move out of their home.

Although there's no law in South Carolina that specifically says a spouse has to move out in order to claim financial support prior to a divorce, the court said such a requirement made sense.

Otherwise, family courts could be flooded with claims for support after couples had minor quarrels or disputes, the court said.

Requiring a spouse to move out ensures that judges don't intervene in marital relationships unless the grounds for the complaint are serious enough to warrant leaving the home.

Felony conviction long ago doesn't prevent man from adopting

Even though a state law says that anyone who has been convicted of a violent crime can't adopt a child, an exception can be made for unusual circumstances, a New York judge recently ruled.

In that case, a married woman had had custody of a seven-year-old boy since he was born, and she wanted to adopt him. In New York, a married person can't adopt a child unless his or her spouse is also part of the adoption. But the woman's husband had been convicted of third-degree robbery nearly 20 years earlier, which disqualified him.

Nevertheless, a judge said an exception should be made in this case. The judge found that the husband had completely rehabilitated himself, and that the child would suffer a devastating impact if he were taken from the home. Therefore, the child's best interest required that there be an exception to the rule.

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Spouse who makes a good living is not guaranteed alimony

It's often assumed that someone who makes a lot more money than his or her spouse will probably pay alimony in the event of a divorce.

But what if the lower-earning spouse still makes a nice living in his or her own right?

In those situations, alimony is not a guarantee, the Tennessee Supreme Court recently ruled.

In that case, a woman who made \$72,000 a year working for the state divorced her husband, a company comptroller who earned between \$120,000 and \$140,000 a year.

The wife argued that since her husband's income was so much higher, she was entitled to alimony.

But the court ruled that alimony is intended for situations where a spouse cannot, through reason-

able efforts, earn enough money to have a standard of living reasonably comparable to what he or she enjoyed while married.

In this case, the wife had a strong earning history, and the court said there was no reason to think that on her own she couldn't enjoy a standard of living comparable to what she had during the marriage.



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Taxes can get complicated when people get divorced

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can always elect to file separately. You might want to have your taxes prepared both ways to see which is more advantageous for you.

If your spouse would prepare a joint return, and you have any reason to suspect that he or she might not be completely honest, you should definitely speak with your attorney about this. If you sign a joint return, you could in some cases be held legally responsible for any misrepresentations.

You might also have heard that alimony payments are deductible on your taxes, while other divorce-related payments are not. That's true – but the tricky thing is that it's not always clear whether a payment qualifies as alimony.

For instance, an Indiana man recently gave his ex-wife \$22,000 to reimburse her for paying off the mortgage on their marital home. He deducted this amount as alimony on his federal income tax return. But the IRS objected, and the U.S. Tax Court said the payment wasn't alimony because it was tied to the terms of the mortgage.

And in Florida, a man claimed an alimony deduction for \$15,000 he was ordered to pay his ex-wife to partially reimburse her for her attorney fees. The U.S. Tax Court again agreed with the IRS. The court said the money wasn't "alimony" because under state law, the husband would owe the money even if the ex-wife died before the payment was made.

Here are some other difficult tax issues that can arise at divorce:

- There are many tax benefits to having a child, but if parents have joint custody, it's not always clear which parent is entitled to these benefits. These include the dependent child exemption, the tax credit for a dependent child, the dependent care credit, and the earned income tax credit.
- If a couple divides assets at divorce that have appreciated in value, such as stocks, and the assets are later sold, there can be issues as to who has to pay the capital gains tax and how much is owed. (If a home is sold at divorce, there can also be capital gains issues.) You should be aware that if you pay attorney fees relating to dividing capital assets in a divorce, in some cases the amount of the fees can be added to the property's tax basis, thus reducing the capital gains tax.
- Speaking of attorney fees, these are generally not deductible in a divorce, but in some cases they are, such as if you pay attorney fees for tax advice or to enforce an alimony obligation against a spouse who has fallen behind in his or her payments.
- If one spouse is not a U.S. citizen, then payments made at divorce may be subject to gift tax.

Of course, taxes can be very complicated even *without* a divorce. But if you're getting divorced, it's wise to talk with a lawyer or other professional to make sure you're doing everything correctly, and to take advantage of any savings to which you might be entitled.

If parents have joint custody, it's not always clear who gets the dependent exemption, child tax credit, dependent care credit or earned income credit.

Be careful about sending text messages to an ex-spouse

Text messaging can be a good way for ex-spouses to communicate with each other about certain topics, such as the practical details of child custody. Text messages are short and quick, and they can be less likely to lead to extended arguments than a phone call.

On the other hand, sending repeated text messages to an ex-spouse, ex-lover or ex-partner can sometimes be considered harassment – especially if the texts are insulting or have a threatening undertone. Sometimes, repeated texting can result in a restraining order...or even criminal charges.

A recent court case in New Jersey explored where to draw the line.

In that case, a divorced couple shared joint custody of their children. The mother was the primary residential parent, and the couple typically texted each other to communicate about the children.

But the father eventually grew unsatisfied with his ex-wife's responses, and began texting her

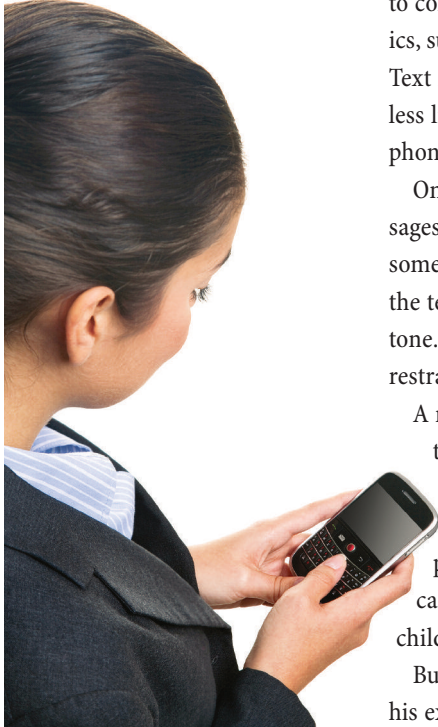
repeatedly to get more information. At one point, he texted the mother 18 times in a short period to find out his daughter's SAT score.

The mother filed for a restraining order, claiming that the repeated texting constituted harassment.

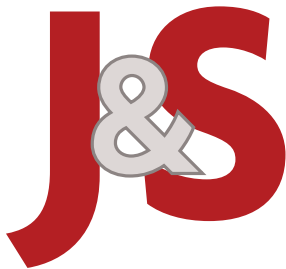
But a judge ruled that while the father's texting was "dysfunctional," it wasn't illegal because it involved legitimate concerns about his children's lives.

However, the judge made a point of saying that had the texts involved other subjects, they could have been considered harassment, resulting in legal consequences.

So it's important to be careful about texting. If you feel that your ex-spouse is stonewalling you about your children or other important matters, it's best to consult your lawyer to discuss the best way to handle the situation. And if you feel that your ex's texting has become genuinely harassing, you should consult an attorney for advice – or, if you feel imminently threatened, call the police.



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