



THE
Harris Law Firm P.C.
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"Colorado's Divorce and Child Custody Specialists"

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DIVORCE AND TAXES

Are Maintenance and Child Support Payments Taxable?

Taxpayers who are going through a divorce or a marital separation often have questions about the tax ramifications associated with the receipt of maintenance and/or child support payments. Before filing your taxes, it is important to fully understand the tax laws and tax consequences that are applicable to your situation. In spite of the difficulties that you are experiencing, the IRS will still expect you to file your taxes correctly and on time. Using a tax professional to prepare and record your taxes during a divorce can give you the peace of mind you need during these times of confusion and financial uncertainty.

1. Maintenance payments are considered taxable income

- Maintenance, as defined by the IRS, is considered earned income and is taxable to you in the year received. The amount of the payment must be reported on IRS Form 1040. You cannot use

Form 1040A or Form 1040EZ.

- The amount of maintenance paid to a former spouse is deductible and may be claimed in the year paid on the IRS Form 1040.

A payment to or for a spouse or former spouse under a divorce or separation instrument is considered to be maintenance, if the spouses do not file a joint return with each other, and if the following conditions are met:

1. The maintenance payment must be made by cash, check, money order, etc.
2. The instrument does not designate the payments as "not maintenance."
3. The spouses are not members of the same household at the time the maintenance payments are made.

Exception: If you are not legally separated under a decree of divorce or separate maintenance, a payment under a written separation agreement,

support decree or court order may qualify as alimony even if you are of the same household at the time of payment.

4. There is no liability for maintenance payments after the death of the recipient spouse.
5. The maintenance payment is not treated as child support.

2. Child support payments are not considered taxable income

- Child support payments are neither deductible by the payor nor taxable to the payee. When you total your gross income to see if you are required to file a tax return, do not include child support payments received.

For additional information, and explanations of these requirements please refer to:

<http://www.irs.gov>

- IRS Publication 504, Divorced or Separated Individuals.
- IRS Tax Topic 422, Non-taxable Income.
- IRS Tax Topic 406, Alimony (Maintenance) Received.



THE
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*Helping Couples, Parent, Grandparents and, most importantly,
Children deal with the effects of divorce and separation.*

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THE IMPORTANCE OF CREATING A MARITAL AGREEMENT

By *Christine Neirenz*

With nearly 50% of all marriages now ending in divorce, it is not unusual for couples to sign a prenuptial agreement, or marital agreement, as it is now called under Colorado law. While it is important for couples to be optimistic about their future together, it is also imperative, as it is in the formation of any legal partnership, to discuss the financial concerns that will arise in the unfortunate event that the partnership fails.

When No Marital Agreement Exists

Under Colorado law, the marriage contract assigns property rights for each spouse.

For couples who do not have a prenuptial agreement, Colorado law will determine who owns the property that was acquired during the marriage, as well as what happens to that property in the event of death or divorce.

For example, when there is no prenuptial agreement, a spouse generally has the right to:

- Share ownership of assets acquired during marriage
- Share responsibility of all debts incurred during marriage
- Share in the management and control of all marital property
- Inherit in the estate of the deceased spouse, regardless of what their will may provide

Creating a Valid Marital Agreement

The Marital Agreement should fully detail the financial arrangements that will take place in the event of divorce or death. Having a well-drafted agreement in writing can streamline the court case in the event that divorce becomes unavoidable. It is important that couples negotiate and have the agreement written in a way that is clear, binding, and legally sound. It is important for parties to seek the

advice of counsel in preparing such agreements based upon the magnitude of the rights involved. A well prepared marital agreement will be less expensive in the long run than a poorly prepared agreement, which may involve trips to court and hearings on interpretation and the soundness of the agreement.

To access the full version of this article, please visit www.harrisfamilylaw.com

NEW ASSOCIATE ATTORNEYS

The Harris Law Firm is proud to announce that Margaret E. Walker and Manuel A. Pellicer have joined The Harris Law Firm P.C., as associate attorneys.

Margaret E. (Peggy) joins us with 23 years of university teaching experience at the University of Denver, Sturm College of Law, and 28 years of experience as an attorney.

Manuel gManny h Pellicer, who is fluent in Spanish, graduated from the University of Denver, Sturm College of Law, and has earned multiple awards for excellence.

Welcome to Peggy and Manny!

SCHEDULE SPECIAL TIME WITH YOUR CHILDREN

One of the most challenging obstacles that parents face when trying to be the best Mom or Dad they can be is the issue of time. No one has enough of it, but your time is exactly what your children want from you. While spending hours in front of a new computer or a big screen TV can be fun, what makes most children feel special is simply spending time with their parents. Balancing your work, your personal needs, and your relationships can be tough, but making time for your children is a must. When planning your week on your day timer or calendar, why not allow your child to

schedule special time with you to do something that you can enjoy doing together:

- 1) Choose a story together and read to your child, or let them read to you. Take the time to talk about and discuss the story after each chapter.
- 2) Provide your child with pencils and paper and ask them to draw pictures about the story. Encourage them to tell you about their drawings.
- 3) Allow your children to help you plan, shop for, and prepare a meal together.
- 4) Watch fun and family oriented movies, and talk about what you all liked and disliked about the story.
- 5) Play an indoor game together like cards, Scrabble, Candy Land, or Monopoly.
- 6) Play an outdoor game like catch or Frisbee.
- 7) Teach them how to play a new game like croquet, basketball, tennis, or volleyball. Talk to them about good sportsmanship and the importance of playing fairly.
- 8) Take a walk together, or ride your bikes around the neighborhood.
- 9) Share some of your favorite music with your child and let them share their favorite songs with you.
- 10) Enjoy a Saturday outing and take your children to the zoo or to the natural history museum.

Whatever you decide to do, the time you spend with your child doesn't have to be a special event, it just has to be special!

QUOTE OF THE QUARTER

"They always say time changes things, but you actually have to change them yourself."
Andy Warhol, *The Philosophy of Andy Warhol US Artist (1928 - 1987)*