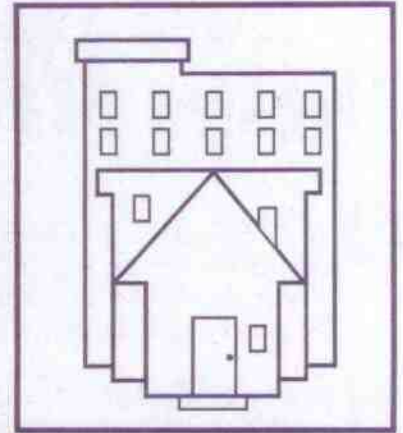


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What Happens to the Real Estate In Divorce?

By Jacqueline L. Kemp, Esq.

Hopefully you will not have the need to ponder this question but if you do, some general guidelines may be helpful. Ohio is a no-fault State which generally means that all marital assets are divided equally between the spouses. Such assets would include residential and commercial real estate. Assets can be marital property even if titled in only one spouses' name.

The allocation of real estate in divorce is actually more of an economic question than a legal question. If neither spouse can afford to maintain the real estate on his or her own, then the property must be sold with the net proceeds generally being divided equally between the parties. If only one spouse can afford the property and he or she desires to maintain the property, such spouse may be awarded the property so long as he or she can remove the other spouses name from all liability associated therewith. This typically involves qualifying for a refinance or assumption of the mortgage indebtedness as well as the ability to pay the other spouse any equity to which he or she may be entitled. If both spouses can afford the real estate and desire to keep same, the court is often left in the position of simply ordering that the real estate be sold.

The value of the real estate can be determined by the agreement of the parties, certified appraisal or based upon a market analysis performed by a realtor as selected by the parties. If both parties obtain differing appraisals and cannot agree on the value of the real estate, the trial court must determine which appraisal is more credible. The trial court is not permitted to simply split the difference in appraisals without other evidence justifying such a conclusion.

If the real estate is part of a corporation, LLC or other business entity, it is the shares of the entity that must be valued for divorce purposes. The value of the real estate itself will certainly be taken into consideration when valuing the shares. The shares themselves will then either be divided among the parties or they will be valued with one party buying the other party out of his or her interest.

If one spouse owned the real estate prior to the marriage and the only appreciation in value was due to pure market influence, the real estate may remain as the separate property of the spouse. In this scenario, however, the non-owning spouse may be entitled to receive the value of one-half of the mortgage principal reduction if the mortgage was paid with marital income.

If the pre-marital real estate appreciated in value during the marriage due to improvements made to the property or active management of the property, the appreciation may be deemed marital and subject to equal division. Under this scenario, expert testimony will likely be required to differentiate between the separate and marital nature of the property.

Like all things in life, there are no guarantees. Each divorce case is unique with its own set of facts and circumstances. The best advice is to keep all records pertaining to the real estate so that one is not left trying to recreate transactions years after the fact. If a party has a separate property claim to all or a portion of the real estate, it is his or her burden to demonstrate same to the court. A party must have full and complete documentation in order to sustain such a burden of proof.

Jacqueline L. Kemp is a partner with Kemp, Schaeffer & Rowe Co., L.P.A. She practices exclusively in the area of domestic relations. She is certified by the Ohio State Bar Association as a Family Law Specialist; is a Fellow in the American Academy of Matrimonial Lawyers and has been named in Superlawyers magazine. She can be reached at Jacqueline@ksrlegal.com.

How the Title Industry Helps Strengthen America

The title industry is an important part of every American's life. It may seem like a grandiose claim, but the work we do benefits not only each individual policyholder, but the nation as a whole. Here are just a few examples of how our country and the people in it benefit from the actions of the title industry.

We protect children's well-being.

- We collect \$325 million in past due child support annually enabling children to be properly cared for

We protect people from unseen dangers.

- We work with law enforcement to prevent and apprehend people committing fraud through real estate transactions
- Our underwriter, Stewart Title Guaranty Company, provides alerts on Specially Designated Nationals, as well as Fraud and Closing Alerts using information from the government to help prevent criminals/terrorists from purchasing real estate

We protect people's investments in their homes.

- Over half of all real estate transactions have a problem somewhere in the chain of title; we find these issues and assist in taking corrective action to enable the transactions to go through

Our protection provides peace of mind that helps boost the economy.

- We provide assurance to homeowners that they can't simply lose their title because of covered claims
- We provide assurance to lenders that their investment is protected, thus allowing homeowners to unlock the value in their homes

We directly help boost the economy by making real estate transactions more efficient.

- We save consumers \$10 billion annually in interest cost through timely closings, putting those dollars to work in the hands of the American homeowner
- By expediting the closing process we save consumers and the real estate industry \$1 billion a day

We help strengthen our nation.

- We collect \$1.75 billion in delinquent federal taxes annually, lessening the tax burden for everyone

The title industry is an integral and vital part of our country's real estate market that benefits us as individuals and as a country

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Animal Agriculture Jobs and Contributions \$4 Billion Dollars

Animals not only consume nearly 98% of U.S. soybean meal, they generate over \$250 million in tax revenue for local communities and \$390 million in personal income for Ohioans every year.



No wonder agriculture is considered the most important market for soybean farmers. Thanks to the Ohio Soybean Council and soybean checkoff, research that can lead to higher quality

PORK

There are approximately 3,700 hog farms in Ohio that raise more than four million hogs each year, ranking Ohio ninth in pork production. Twenty-two percent of all pork in Ohio is exported to other countries.

ESTIMATED ECONOMIC IMPACT: \$1.3 billion
ESTIMATED GROSS INCOME: \$505 million
ESTIMATED JOBS CREATED: 10,860

POULTRY

With layer hens producing nearly 7.4 billion eggs last year, Ohio ranks 2nd in U.S. egg production. Ohio turkey production ranks 8th nationally, and Ohio ranks 15th in broiler production. All birds grown and egg produced in Ohio are processed in state.

ESTIMATED ECONOMIC IMPACT: \$2.3 billion
ESTIMATED GROSS INCOME: more than \$50 million
ESTIMATED JOBS CREATED: 17,000

ates Over 45,000
s Approximately
Ohio's Economy.

ANNUAL
SOYBEAN
MEAL
CONSUMPTION

25%
Swine

Source: Ohio Soybean Council

aits, increased amino acids,
proved protein digestibil-
y and nutritional value
ill continue to keep this
arket strong and hungry
r Ohio soybean meal.

BEEF

Ohio's cattle farmers raise approxi-
ately 1.27 million head of calves
and cattle with a total value of \$1.3
billion dollars and produce nearly
10 million pounds of beef each year.

ESTIMATED ECONOMIC IMPACT: \$745 million
ESTIMATED GROSS INCOME: \$401.7 million
ESTIMATED JOBS CREATED: 13,577

DAIRY

There are more than 3,200 dairy
farms in Ohio with 272,000 cows,
which produced more than 5.18
billion pounds (600 million gallons)
of milk in 2009. Ohio ranks 1st in
hard cheese production, 5th in the
number of processing plants and
4th in milk production.

ESTIMATED ECONOMIC IMPACT: \$4.2 billion
ESTIMATED GROSS INCOME: \$683 million
ESTIMATED JOBS CREATED: 14,350

Have a debt forgiven? IRS has a tax for that

Scripps Howard News Service

WASHINGTON ~ Consumers trying to claw their way out of debt face an adversary far larger than bill collectors: the Internal Revenue Service.

Debt-strapped Americans think they're on the path to financial recovery by settling old bills, but they frequently fail until the last minute to learn a budget-busting detail: Forgiven debts are considered taxable income. Recent cases show that when a creditor decides to cancel interest or fees, the IRS considers that taxable income, too.

Cash-starved consumers must pay taxes on forgiven credit-card debts, according to former IRS officials, personal-finance experts, debt-settlers and tax-law experts.

"It just keeps people from getting back on their feet," said National Taxpayer Advocate Nina Olson. Her job is to help the IRS and the public understand each other, by holding tax clinics and examining the agency as a watchdog. She is looking at ways to improve the debt-forgiveness process.

A spokesman for the IRS declined to comment. But Bryan Camp, who worked in the IRS office of chief counsel in the Clinton administration, said that the system is "like a kick in the rear that comes after you think the bad stuff is over," he said. "It adds insult to injury."

Caffeine is more prevalent than you would think

(MS) ~ Caffeine is something many people want to avoid for one reason or another. Whether it's for health reasons, such as avoidance during pregnancy, or simply because you do not want to be kept awake at night, knowing the sources of caffeine is helpful.

While most know that a can of cola or a cup of Joe contains caffeine, there are other foods and beverages where caffeine content could be a mystery.

- ◆ **Decaffeinated does not mean caffeine-free.** Decaf products contain considerably less caffeine than their full-strength counterparts. However, there are still detectable levels of caffeine present. Most brands of decaffeinated coffee, for example, have anywhere from 8 to 14 mg of caffeine per serving (regular coffee has 85mg on average). For individuals sensitive to caffeine, even this small amount might result in some adverse effects.
- ◆ **Watch your sodas.** It's safe to assume that colas will contain caffeine, but clear sodas are OK, right? Actually some other sodas have more caffeine than Coke or Pepsi. Mountain Dew, for example, has more caffeine per serving than other popular colas. Some orange sodas and root beers even have caffeine added.
- ◆ **Read the label.** The nutrition label of foods and beverages must list whether caffeine is "added" to a product. However, if it is naturally occurring, caffeine may not be listed.
- ◆ **Don't forget the chocolate.** Chocolate foods and beverages can have varying levels of caffeine. White chocolate will not, but milk chocolate in particular can contain high amounts.
- ◆ **Avoid coffee-flavoring.** If you're planning on digging into a coffee-flavored ice cream or yogurt, chances are there is caffeine present as well.
- ◆ **Be aware of herbs and other caffeine sources.** Caffeine can be present in things other than chocolate and coffee beans. Kola nuts, yerba mate, guarana are all sources of the stimulant. Drinks or foods that contain these ingredients will give you a caffeine rush.
- ◆ **Avoid energy drinks/weight-loss aides.** The ingredient providing the "boost" in many of these products is caffeine.
- ◆ **Medications may be caffeinated.** Some over-the-counter headache remedies and cold products contain caffeine. Read the labels of any medication to learn if caffeine is present.
- ◆ **Green tea.** Many people equate green tea to herbal tea. However, although it has less caffeine than black tea and much less than coffee, it still contains caffeine. The same can be said for iced tea products.

Notable Quotables

The control of the production of wealth
is the control of human life itself.
~Hilary Belloc

Swallow your pride occasionally,
it's not fattening.
~Frank Tyger

I am a man of fixed and unbending principles,
the first of which is to be flexible at all times.
~Everett Ruess

I have never killed a man, but I have read
many obituaries with great pleasure.
~Clarence Darrow

I want a man who is sensitive to all things
and macho in emergencies.
~A famous woman whose name I forgot

If you are not at the front of the
dog sled team, the view never changes.
~Unknown

You will only be remembered for two things;
the problems you solve or the ones you create.
~Mike Murrack, 101 Wisdom Keys (Wisdom International)

A leader must accomplish the difficult task of getting
those on the team to believe that 'we' supersedes 'me'.
~John Wooden

When one door of happiness closes, another opens;
but often we look so long at the closed door that we do
not see the one which has opened for us.
~Helen Keller

Happiness is a perfume you cannot pour
on others without getting a few drops on yourself.
~B. Joseph Cosman

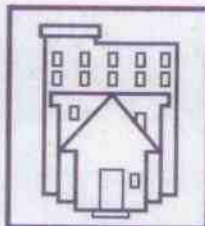
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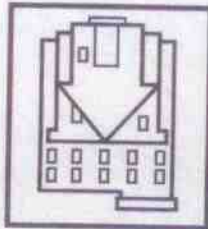
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