The Gray Divorce: Outlasting the Storm

By Jean Dorrell

What to consider when hit with The Gray Divorce:

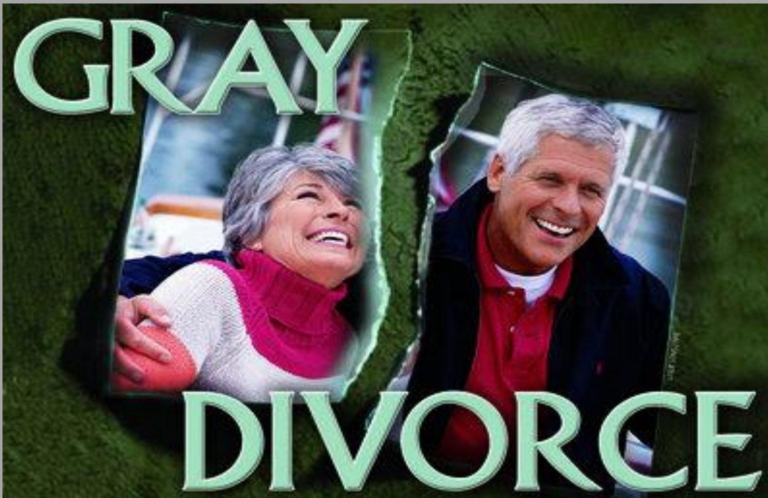
I. Avoid Tax Penalties When Splitting Up Assets

II. Who Gets the House?

III. Be Knowledgeable About Debt

IV. Plan For Gaps in Health Insurance

V. Consider Collaborative Divorce



Twenty years ago, divorce rates were said to be as high as 50% in the US. While that number has been steadily dropping, divorce rates for people 50 and over has doubled in that time. In 1990, just 1 in 10 marriages were ending in divorce for people over 50; today it is 1 in 4. A study performed by sociologists at Bowling Green State University predicted the number of post 50 divorces could easily surpass 800,000 per year by 2030. Experts refer to this growing trend as *The Gray Divorce*. Why is this happening? How does this differ from younger couples experiencing divorce? What can people experiencing *The Gray Divorce* do to navigate through this difficult time in their lives?

There are several reasons for this. These days, and unlike their baby-boomer parents, younger people are waiting to get married and are jump starting their careers first; whereas their parents got married around 18-21 years of age and were ready to start a family shortly thereafter. Now that the kids are growing up and moving out, couples are beginning to realize how much they have grown apart over the years. It' not as uncommon as it used to be for a husband and wife to look at each other, after the kids are out of the house, and say "I'm not happy. We have different interests and values now."

Some experts point to the ability of people to easily reconnect with those from their past using social media, like Facebook, as a contributing factor, as well as the growing number of people who communicate with potential partners via online dating sites. In fact, the number of people over 50 using dating sites has grown twice as fast as any other age group in the past year, according to comScore.com.

In the past, marriage was a lot about fulfilling a role: to be a good husband and provide for the family; to be a good wife and take care of the home, raise the kids. Now, more and more women are entering the workforce. Women are much more independent these days, and are not afraid to leave a marriage because they can provide for themselves. According to CBS News, women are initiating two-thirds of the break-ups for couples over 50. They seem to be more comfortable making that leap for emotional well-being. Some no longer need a husband for financial stability, and some men are blindsided by their wives' decisions.

The concerns for men and women are different. The women want to make sure they will be financially stable moving forward. With men, concerns are more about, "Who will take care of me day-to-day?" "Who will cook and clean for me?" "Who will take care of me when I get sick or go on vacation?"

In cases of divorce for younger couples in their 20s and 30s, it has been about custody issues; however, with couples in their 50s and 60s, it's about financial issues, such as separating real estate, retirement accounts, debt and investments. This adds a whole other element to the existing complexity and stress of divorce, because couples who have been married for decades have very intertwined finances and investments. At times it can feel overwhelming, and most attorneys are not financial experts. That's why I, founder of Senior Financial Security, Inc., became a Certified Divorce Specialist – to help guide you through this difficult period in your life, and make sure the ending results are fair. I have come up with several tips to help handle the most challenging money issues for couples who are experiencing *The Gray Divorce*.

I. Avoid Tax Penalties When Splitting Up Assets

It is very important to have a clear snapshot of your assets. Couples should gather all financial records together and make a list of joint assets and debt. There could be money or debt somewhere that the husband or wife is not aware of. Also, important provisions and the value of various retirement plans may be overlooked if both are not careful. A real headache can be retirement plans, which can create tax penalties and income tax if not done correctly.

One way to avoid these tax penalties is to issue a Qualified Domestic Relations Order (QDRO).

QDRO

To split up certain assets such as pension, a divorcing couple will need to include a QDRO in their divorce agreement, which is designed to protect the husband and wife from owing taxes when retirement funds are transferred from one to the other if issued properly. It establishes an ex-spouses' legal right to receive a designated percentage of one's qualified plan account balance or benefit payments. To maintain the original account's tax-deferred status, or in the case of a Roth, continue tax-free status, the distribution must be transferred into another qualified retirement plan, which is usually an individual retirement account owned by the person who receives it. In addition, to accounts like a 401(k), which have an asset value but no guaranteed payout, a QDRO can also split guaranteed income streams from traditional pensions. The important point is that a QDRO needs to be properly written to insure one does not incur tax penalties, or that each party is entitled to their own share of taxes if any are incurred.

A proper QDRO must include the following:

- The full name and last known mailing address of the original plan-owner and the person who is receiving the distribution
- Social Security numbers for both parties
- The formal name of the original plan
- The plan's identification number
- The amount payable to the new owner or, in the case of a pension, the amount of time that benefits are to be paid to the new owner

What happens when retirement account money goes to an ex-spouse without a QDRO? It's treated as a taxable distribution to the account holder, which means money will be owed to the IRS that actually winds up in the ex-spouses' pocket. Remember, if the account holder is under the age of 59 ½, he or she may also get stuck with the 10% premature withdrawal penalty on top of the income tax bill.

QDROs do not cover military or federal government retirement savings plans, so some might need to take the route of a Thrift Savings Plan (TSP). These retirement savings plans require a court order to divide the accounts, which can be issued at any stage of a couple's separation. In cases that award a specific dollar amount

or percentage to an ex-spouse, the court will require a TSP to “freeze the account.” This prevents any withdraws or loans until the settlement amount is paid; although, contributions can still be made to the account and loan payments are still mandatory.

In addition to a QDRO and TSP, keep in mind that you can collect on your ex-spouse. A former spouse may be eligible for Social Security payments if the marriage lasted at least 10 years. The divorced spouse must be age 62 or older and unmarried, and an ex-spouse claiming has no impact on the worker’s payout.

II. Who Gets the House?

This is a tricky one, and is always more difficult the longer a couple has been married. Men and women have spent much of their life in their home, so it is one of the first things they might try to hold on to. Although, women tend to have more of an emotional attachment when it comes time to decide who gets the house. Their kids took their first steps, learned to ride a bike, learned to drive, and grew up in the house, so it is very normal for women to want to clinch to this sense of normalcy when going through this big change in their lives.

However, something to consider is the cost of upkeep for the house, which can get financially difficult and create extra burden. So it may be better and more realistic to sell the house, pull out the equity, and buy something smaller. Bear in mind, this is a new chapter in your life, so it might in fact be better in the long run, emotionally and financially, to start with a clean slate in a new house.

Another option to consider is a reverse mortgage to maybe make it financially possible to keep the house. A reverse mortgage is a loan available to people over 62 years of age that enables a borrower to convert part of the equity on their home into cash.

Reverse mortgages were conceived as a means to help people in or near retirement, and with limited income, use the money they have put into their home to pay off debts (including traditional mortgages), cover basic monthly living expenses or pay for health care. There is no restriction on how a borrower may use their reverse mortgage proceeds. The loan is called a reverse mortgage because the traditional mortgage payback stream is reversed. Instead of making monthly payments to a lender (as with a traditional mortgage), the lender makes payments to the borrower. The borrower is not required to pay back the loan until the home is sold or otherwise vacated. The amount of proceeds one receives is based on the appraised current value of the home, age and current interest rates. As long as you live in the home, you are not required to make any monthly payments towards the loan balance, but you must remain current on your tax and insurance payments.

The most common type of reverse mortgage is a Home Equity Conversion Mortgage, or HECM, which is a reverse mortgage created by and regulated by the U.S. Government Department of Housing and Urban Development. Only homeowners 62 and older are eligible to participate.

A HECM is not a government loan. It is a loan issued by a private bank, but insured by the Federal Housing Administration, which is part of Housing and Urban Development. Each year the borrower is charged an insurance fee of 1.25% of the loan balance. Your loan balance thus increases by the amount of this fee. The insurance purchased by this fee protects the borrower if and when the lender is not able to make a payment; and if the value of the home upon selling is not enough to cover the loan balance. In the latter case, the government insurance fund would pay off the remaining balance. Currently, HECMs make up 99% of all reverse mortgages offered in America. HECMs come with rules and regulations that include a requirement that the borrower receive third-party counseling, including that of a financial advisor or Certified Divorce Specialist such as myself.

III. Be Knowledgeable About Debt

Full disclosure from both parties is absolutely necessary when couples are working through divorce! It is not uncommon for there to be some hiding going on here; in many cases, both parties are aware of some debt, but might not have a clear picture of just how much debt. We all watch movies that involve divorce and couples fighting about how to divide up the vast wealth they have created, when in most cases in the real world, it's disagreements about how to handle debt that occur. A lot of couples have as much debt as they do property. Many tend to forget that getting a divorce is as much about dividing up who is responsible for the debt as it is dividing up the property.

The divorce attorneys should be able to give each party the other's general debt information. Another easy way to find out what kind of debt you and your spouse owe is to get a credit report. The most popular credit report agencies include Equifax, Trans Union, and Experian (formerly TRW). Getting your credit report from all three agencies is probably a good idea, and is not terribly expensive; around $10 per report if not less. There are also websites that offer free credit reports like www.AnnualCreditReport.com, but that also depends on what state you live in. Now, there is a chance your ex-spouse isn't hiding any money, but $30 seems like a small price to pay to make sure that is the case.

Once you have identified your debt, the first thing you want to do is to keep it from getting any worse. In other words, keep each of you from running up any new charges during the divorce. The easiest way to do this is to cut off all of the credit cards. Although, you will probably not be able to cut off your spouse without cutting yourself off too, but this prevents any additional purchases from either of you. Keep in mind, never cut off your spouse without letting them know what you are doing. It will only make things more stressful if they try to use a credit card somewhere, only to get embarrassed and upset when they find out you have cancelled it. If there is a chance you both are cooperative, you could even designate one or two cards to keep available for specific purchases and cancel the rest.

There are several choices you have to paying off the debt. Both parties can pay off all debt right away. One can take responsibility for more debt, and receive more assets to balance it out. Or, both can divide the debt evenly and go their separate ways. This is another good reason to bring in a Certified Divorce Specialist or a financial advisor, like myself, to help put a plan in place that is reasonable and the right plan for you, so you can tackle debt in the most efficient way possible.

Again, it is important to be honest and be realistic about ALL debt. It will make it easier to set up and move forward with a plan to get the debt taken care of.

IV. Plan For Gaps in Health Insurance

When hit with The Gray Divorce, one of the last things people may consider is health insurance. It is important to keep in mind that what was covered before may not be covered moving forward. Also, Medicare does not kick in until age 65, so that is a possible concern as well. The AARP refers to adults in the 50-64 age range as the pre-Medicare eligibility age group. In a study, it showed that 8.9 million adults in this age group were uninsured in 2012, up from 3.7 million in 2000. Even though, three out of five of these uninsured adults were employed, several of their employers did not offer coverage or many were not eligible for employer health plans. The study also showed that one in five insurance applications for the pre-Medicare eligibility age group was denied.

One option to ensure the same amount of insurance coverage is the Consolidated Omnibus Budget Reconciliation Act of 1985, or what most people refer to as COBRA. COBRA was initiated as a health insurance that would remain in effect for someone should they be terminated or laid-off from their job. All companies that provide health insurance for their employees in a group plan have to abide by the rules defined by COBRA. The health insurance can vary between a period of 18 and 36 months. This is also available to former spouses of someone who is insured through a group plan with his or her employer. Now, this type of insurance can be expensive, but it will guarantee the same amount of coverage for up to 36 months, which might bridge the gap until Medicare kicks in.

If an employer does not offer group coverage, groups or institutions you belong to might offer health coverage as a membership benefit. Examples include trade unions, religious institutions, and professional organizations. Although, group health plans offered by entities other than employers typically provide coverage that is narrower in scope.

Another route for insurance might be Obamacare, also known as the Affordable Care Act, which is aimed at decreasing the number of uninsured Americans and reducing health care costs. This could benefit the 50-64 age group. When the act takes effect in 2014, individual insurers will be required to accept all applications. This includes anybody with preexisting medical conditions. Also, the premiums that are set based on age will not be permitted to be set as high as in the past.

Some of these options can be expensive, but with the right planning, and the help of a financial advisor or estate planner, there are ways to ensure you are covered through age 65.

V. Consider Collaborative Divorce

If you and your spouse have decided to divorce, a new alternative to the usual adversarial approach is collaborative divorce. This is fairly new idea in which attorneys negotiate, compromise and create a friendlier environment for the soon-to-be ex-spouses. It is a more effective way to end a marriage without so much anger and resentment involved in many divorces. The benefits are:

- It is less expensive than litigation
- Both parties have a say in your outcome, instead of a judge deciding
- It is much faster than taking anybody to court
- It is a good way to reach a fair solution and resolve differences
- Both parties are able to set an example for loved ones, such as their children

The longer a couple is married, most likely the more complicated and intertwined their finances are. Do not assume your divorce attorney knows how to file a QDRO, or can provide advice about debt, make a suggestion on health insurance, etc. Chances are an attorney does not. When stricken with the Gray Divorce, you should consider hiring a qualified financial professional, or a Certified Divorce Specialist, to make sure you are taken care of from every angle. Someone with financial experience is critical when outlasting the storm of divorce, and will allow you to create beneficial combination of financial and legal expertise.

I became a Certified Divorce Specialist because I want to help those experiencing *The Gray Divorce*. I will work closely with attorneys to help you and your ex-spouse work through the difficult and complex financial matters of divorce, and help you come to an agreement that is fair and reasonable for everyone involved. Divorce is never fun or easy, especially when couples have been married for 20, 30, 40 years or more. I will work to try and eliminate as many headaches as possible. For more information, visit my website http://www.thesmartmoneygal.com or call me at Senior Financial Security, Inc. in The Villages, FL.

Santa Fe Professional Center
8564 East CR 466, Suite 202
The Villages, FL 32162
352-307-8652

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