

Divorcing in 2016? Get your affairs in order first

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Divorce filings jump in the New Year



If only it were this easy.

If you're planning to get divorced in 2016, start thinking about your exit strategy now.

Divorce filings surge in January as people decide to start their New Year with a clean slate, experts say. "We are at least 25% busier in January and, sometimes, twice as busy," says Randy Kessler, an Atlanta-based lawyer who wrote the book, "[Divorce: Protect Yourself, Your Kids, and Your Future](#)." "January is always the biggest month for new divorce filings. A lot of people who are unhappily married get through the holidays and say, 'You know what? I'm going to start the year fresh.' The American Academy of Matrimonial Lawyers says [divorce filings in January are usually one-third higher](#).

Don't file divorce papers without first researching the financial and legal implications. Seek out three professionals, Kessler says: A psychologist to help you make sure that you are making a clear-headed choice, a certified financial planner to outline the financial implications, and a divorce lawyer who can prepare you for all that is to come. "So many people file for divorce based on emotion," he says. "By the time you figure out what it looks like financially, you may think twice about doing it." And to ensure confidentiality, employ professionals that [have no relationship or connection with your family already](#).

If there is no prenuptial agreement, find out whether or not you live in a community (or marital) property state. Arizona, California, Idaho, Louisiana, Texas, Nevada, New Mexico and Washington treat all marital assets as community or marital property, meaning assets acquired during the marriage are divided equally when a couple divorces, says Angie O'Leary, head of investment products for U.S. Bancorp Wealth Management in Minneapolis. In other "equitable distribution" states, assets are divided [based on a variety of factors](#), including the income of each party at the time of marriage, duration of the marriage, loss of benefits, needs of the custodial parent and probable future financial circumstances.

Royal couple become traders for the day

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The Duke and Duchess of Cambridge closed deals and boosted trading volumes in London on Wednesday, in a charity fundraiser for financial services company ICAP.

Gather financial records

Your marital tax status is determined on Dec. 31 for the entire, [according to TurboTax.com](#), but there are other tax considerations to take into account. Case in point: Liquidating Apple (AAPL) stock that was bought 10 or 20 years ago and splitting the proceeds would result in a massive capital gains tax, Kessler says. Another consideration: Will you lose your income tax deductions? "Two high earning spouses might be better off after they're divorced," says Scott Bishop, certified financial planner and certified public accountant and director of financial planning at STA Wealth Management in Houston. But if one spouse earns \$400,000 and one \$50,000, only the latter may qualify for income tax deductions post-divorce.

While you're mulling your decision to divorce or not, take an inventory of your life insurance policies and retirement accounts (including IRAs and 401(k)s) and think about who you might want as a beneficiary in lieu of your soon-to-be ex-spouse. In addition to the divorce decree (should you file papers), you may need a "Qualified Domestic Relations Order" — a court order that requires workplace retirement benefits or IRAs to be split. "Who's going to make medical decisions for you in case of a financial or medical emergency?" Bishop says. People who are not in good health may need to think about such issues should they lose their independence.

More baby boomers are getting divorced, studies show — [one-third of boomers are now single](#) — and will likely be more concerned about retirement given they are closer to retirement age, currently 66. Social Security benefits may (or may not) be affected after divorce, and will likely be less if your current or soon-to-be former spouse dies. On retirement, a person can claim spousal social security benefits based on the earnings of an ex-spouse, provided that the couple was married for at least 10 years and the claimant remains unmarried, O'Leary says. The spousal benefit will equal one-half of the benefit of the ex-spouse if both have reached full retirement age. (Read [U.S. Bank Corp.'s report](#) on managing the financial aspects of divorce.)

Proceed with a clear head

While you are focusing on the financial implications, don't forget to ensure that there's no trail that might lead to embarrassing information that could be used against you — especially if you expect a contentious divorce. Snooping can happen in the run-up to a divorce when people are arguing over money and looking for evidence such as infidelity or overspending to use against the other party, says James McLaren, past president of the American Academy of Matrimonial Lawyers and a family attorney based in Columbia, S.C. And after a divorce, apply that caution to your physical security, too. "Change the garage door passwords (and key fobs) and home security systems," he says.

Ending a marriage is stressful and there are options for those who can't afford high-priced professional therapists. For those who feel divorce is inevitable, there are lower-cost options including counseling through workplace insurance, training clinics often based in universities that offer clients a sliding scale, community health centers and, if you decide to go through with the divorce, group therapy/support groups for newly divorced people through organizations like [DivorceCare](#) and [the Action Family Foundation](#).

Still, while divorce is often an emotionally charged decision, with papers filed in anger or after years of frustration, but the biggest implications are often financial. If one partner is a freelancer and relies on his/her spouse's company health insurance, for example, separation may be a better option. After meeting with your financial planner, lawyer and psychologist, you might decide against getting divorced, for now at least. For those on the fence about divorce in 2016, Kessler says it's best to know what you're getting yourself into. "Talking to a lawyer is not being unfaithful," he says. "It's about being smart and protecting yourself."

Don't miss: [The best \(and worst\) time to get a divorce](#)

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