



Identification, Evaluation, and Transfer of Assets & Debts in Dissolution

Moderate Means Program Family Law Series

Financial and Property Considerations in Dissolution

Applies to

- ▶ Traditional Marriages
- ▶ Registered Domestic Partnerships
- ▶ Committed Intimate Relationships
- ▶ Same Sex Marriages (If Legalized in Washington)



Community Property - A Flyover

- ▶ All property held during the marriage is presumed to be community unless proven otherwise.
- ▶ Property proven to be owned before marriage is presumed to be Separate Property.
- ▶ Characterization of Separate or Community of assets is determined at the time of acquisition.
- ▶ All property acquired during marriage is presumed to be Community, except gifts or inheritances.

Community Property continued

- ▶ All money earned, efforts made after “marriage” is Community Property.
- ▶ Debt incurred after “marriage” and assets or value added to Separate Property is Community.
- ▶ Property acquired during the marriage but titled in one party’s name is still community.
- ▶ Earnings or increases in value of Separate Property during the marriage remain Separate.

Community Property continued

- ▶ Comingled Separate and Community assets become entirely Community assets unless clearly traceable.

“If separate funds become so comingled with community funds that is impossible to distinguish or tract them, all the funds are deemed community.” In re Witt’s estate, 21 Wn2d 112, 246 P.2d 595 (1944)

“If the links in the chain back to, or forward from, a separate property ownership can be clearly established, there will be a separate property. However, if one of the links is confused or uncertain, the basic community property presumption, in the form of the comingling doctrine or rule, breaks the chain.”
Cross, 62 Wash L. Rev. 13, 56 (1986)

Community Property continued

- ▶ The mere availability of Separate Property does not give rise to a presumption that any acquisition is Separate.
- ▶ Transfer of Title of Separate Property to the community transforms the property to Community Property
 - ** exception – Quit Claim Deeds required by lenders putting **both parties** in title to separate property of one of the parties, where the separate owner borrows the money only in his/her own name and on his/her own credit, is not deemed a gift to the community and does not create a community interest. *In re Estate of Borghi, 167 Wn.2d 480, 219 P.3d 932 (2010)*
- ▶ Best Community Property Resources: Community Property Law in Washington, Harry M. Cross, 61 Wash Law Rev (1986) and Washington Community Property Deskbook (WSBA)

Beginning at the End

- ▶ Presume you are going to have a Trial.
- ▶ Build a Property List from the beginning.

Valuation Methods

- ▶ Agreement - Wouldn't that be nice.
- ▶ Expert Opinions.
- ▶ Personal opinion of the asset owner
- ▶ Judges have wide discretion to set values.

Specific Assets

- ▶ Accounts Checking and Savings at Separation (ish)
- ▶ Investment Accounts (not Retirement Accounts) e.g. Scottrade, Charles Schwab, Fidelity, Vanguard, etc
- ▶ Certificates of Deposit
- ▶ Savings Bonds
 - ▶ Site that gives today's value of bonds:
<http://www.treasurydirect.gov/BC/SBCPrice>
- ▶ Cash in the cookie jar, safe, safety deposit box, etc., if you can prove it existed.

Specific Assets continued

- ▶ Promissory Notes or Money Owed
- ▶ Trust Funds
- ▶ Children's college fund
- ▶ Escrow Funds
 - ▶ Apartment Deposit
 - ▶ Mortgage Escrow
- ▶ Value by balance at division or trial.
- ▶ Analyze any SP / CP interests

Non Professional Business

- ▶ Valuation Considerations – The Pieces of the Pie.
 - ▶ Real property*
 - ▶ Inventory*
 - ▶ Tools, machinery, office equipment, etc*
 - ▶ Vehicles*
 - ▶ Monetary assets
 - ▶ Accounts receivable
 - ▶ Business bank Balances
 - ▶ Goodwill*

*usually require an expert

Goodwill

- ▶ Definition: *goodwill* reflects the synergy among the various assets used by the business to produce income : in a well-run business the whole is greater than the sum of the parts.
- ▶ The key factors that contribute to the creation of *business goodwill*:
 - ▶ Going Concern value
 - ▶ Excess business income
 - ▶ Expectation of future economic benefit

Ways of Valuing Good Will

- ▶ **Market Approach**
 - ▶ Sale comparison of comparable businesses less asset value.
- ▶ **Cost Approach**
 - ▶ The savings of by buyer for having a operating profitable business over beginning from scratch.
- ▶ **Income Approach**
 - ▶ Capitalization of excess income.
- ▶ **Simplified Formula:**
 - ▶ $\text{Assets} - \text{Debt} + \text{Goodwill} = \text{Business Value}$

Key: Hire a qualified expert at doing business valuations.

Business Forms Change the Approach

- ▶ **Sole Proprietorships**
 - ▶ Pretty straight forward, hard assets, monetary assets, goodwill if any.
- ▶ **Partnerships and Corporations**
 - ▶ Value the entire partnership and divide by the percentage of ownership.
- ▶ **Separate Businesses that operate during a marriage remain Separate, so long as the party owning the business takes a reasonable salary.**
- ▶ **If the business significantly grows in value during the marriage due to retained earnings, the risk exists that the business will be deemed in whole or in part Community.**

Professional Practices

- ▶ Potentially any profession, medical, legal, architecture, therapy, engineer, consultant, actuary, accountant, etc.
- ▶ Different from other businesses because the skill and reputation play such a large role in the success and income of the business.
- ▶ The value of the professional practice usually involves a greater portion of Goodwill since the specific skills and reputation of the professional is a large factor in business success.

Valuation of a Professional Practice

- ▶ Value = asset value – debt + goodwill.
- ▶ The goodwill is established by determining the amount of annual income earned in excess of what a person employed in the same profession with similar experience would be paid, multiplied by factor of 2-5 years.
- ▶ Essentially it is a value given to the expectation of ongoing significant income.

Valuation of a Professional Practice continued

- ▶ The value for Dissolution purposes exists even **if the professional could not sell the business for the value assigned.**
- ▶ An employee(non-owner) professional working for a business does have professional goodwill even if he or she is earning the same income as the owner professional earns in that business.
- ▶ Professional Partnerships and Corporations require valuation of the entire business and ascribing the value to the party based on the percentage of ownership.

Hire an experienced, qualified professional business appraiser.

MCHUMOR.COM by T. McCracken



© T. McCracken
www.mchumor.com

"I'll relinquish most of my visitation rights if you'll just let Katie come over once in awhile to program my appliances."

© T. McCracken mchumor.com

Life Insurance Policies

- ▶ Term Life Insurance policies have no value.
- ▶ Whole Life policies and other policies that have a cash value are worth the cash value at the time of dissolution.

Intellectual Properties

- ▶ Patents
- ▶ Copyrights
 - ▶ Music
 - ▶ Books
 - ▶ Site Name
- ▶ Royalties
- ▶ Digital Assets
- ▶ If it generates cash or has the reasonable potential to do so in the future, it has a value.

An expert needs to value the asset.

Vehicles

- ▶ Cars and Trucks
- ▶ Recreation Vehicles
 - ▶ Motor homes
 - ▶ Snowmobiles
 - ▶ 4-wheelers
 - ▶ Boats
 - ▶ Tractors
- ▶ Valuation
 - ▶ Use an accepted “Blue Book” by agreement or try to convince the court to accept the Blue Book.

Otherwise, get and expert or try personal opinion.

Personal Opinion: How to Use and Avoid a Hearsay Objection

- ▶ **Begin with the owner's opinion of the value**
- ▶ **Then explain how you verified the value with other sources.**

Household Goods, Furnishings and Appliances

- ▶ Valued at “Fair Market Value”
 - ▶ The price at which a seller, not compelled to sell, and a buyer, not compelled to buy, would agree upon.
- ▶ Don't play the game.....
- ▶ “His stuff is Worth a Fortune, mine is Junk.”
- ▶ Stuff is generally worth between 10% – 30% of the purchase price depending on age and condition.

Household Goods, Furnishings and Appliances continued

- ▶ **Jewelry**
 - ▶ If it is valuable have it valued by a jeweler at **consignment** value. Jewelry insurance values are replacement value not fair market value.
- ▶ Guns – Find a reputable gun dealer for an Appraisal.
- ▶ Auctioneers or lower end “antique” dealers area good option for valuing personal property.
- ▶ If all else fails, try suggesting a **lottery** to the other side or to the court.

Tax Consideration

- ▶ Maintenance is deductible for the paying party and taxable to the receiving party.
- ▶ Child Support is not deductible by the paying party
- ▶ Property awarded to a party carries with it any accrued and future tax liability.
 - ▶ Real Estate Equity
 - ▶ Investment Account gains
 - ▶ Retirement Account tax obligations
 - ▶ Pensions payment tax liability
- ▶ Some judges will make adjustment to the value of some property based on future tax liability. But most will not based on the speculative amount of any future tax actually paid.

What judges do with Property Divisions

- ▶ All property is before the court Separate and Community.
- ▶ The court can award one party's Separate Property to the other Party.
- ▶ Property divisions are done by the court on a 50/50 basis less than half the time.
- ▶ Often Maintenance is used to make adjustments to the division.
- ▶ Sometimes valuation is used to achieve a result the court thinks is fair.
- ▶ The courts division of property is reviewed on appeal based on "abuse of discretion."
- ▶ Suggestions for making your Property Division plan clearer and more efficiently understood – Property Division Sheet



"I now declare you divorced, reversing my decision of three years ago pronouncing you man and wife."

Real Estate in Dissolutions:
Valuation, characterization, and
distribution

Primary Valuable Assets

- ▶ In most cases primary valuable assets of a relationship are usually:
 - ▶ 1) Home Equity
 - ▶ 2) Retirement Accounts/Benefits

Residential Property

- ▶ Home
- ▶ Second Home
- ▶ Rental Home

Valuation of Residential Property

- ▶ Agreement (rare)
- ▶ Expert Appraisal
 - ▶ Formal Appraisal
 - ▶ Real Estate Opinion
- ▶ Owner Opinion (for what it's worth)

- ▶ Net Value = Appraised Value - Secured Debt

Commercial Real Estate

- ▶ Apartment Building
- ▶ Business Building

Valuation of Commercial Real Estate

- ▶ **Cash Flow Analysis**
 - ▶ Annual rents generated
 - ▶ X multiplier (2- 6 years)
- ▶ **Real Estate Appraisal**
 - ▶ Less common but certainly an option

Characterization of Residential Property Community, Separate or Both?

Primary Community / Separate Problems

- ▶ 1) Separate Funds contributed to purchase of property titled in both names.
 - ▶ Separate funds are a gift to the Community absent clear, cogent and convincing evidence. *In re Marriage of Hurd*, 69 Wa.App. 38, 848 P.2d 1020 (1993)
- ▶ 2) Community payment of debt on Separate Property.
- ▶ 3) Community debt obtained to improve Separate Property.
- ▶ 4) Community efforts expended to improve Separate Property.

Characterizing Separate v Community Interests in Real Property:

“The Usual Battle Ground.”

- ▶ 1) Determine when and how the property was acquired as a starting point.
- ▶ 2) Calculate mortgage balance reduction of Separate Property from community sources;
- ▶ 3) Appraise the value of improvements of Community efforts or community contributions to Separate Property,
- ▶ 4) Determine if multiple transactions from Separate and Community is conclusively traceable.

Distribution of Real Property and Related Issues

- ▶ I) The parties keep the property in both names and not awarded to either party.
 - ▶ Treated as a co-tenancy – each owns a one half undivided interest in the property.
 - ▶ Divide the interests later in a partition action (separate litigation) if parties cannot agree.
 - ▶ Need specificity as to payment of debt, taxes and utilities, access to / use of the property.
 - ▶ Increases or losses in value are shared by the parties.
 - ▶ Potential for big problems.

Distribution of Real Property and Related Issues continued

- ▶ **2) Sell the Property**
- ▶ Need to set a date for or event that triggers the obligation to sell.
- ▶ Need to specify who lives in the property until sale as well as who pays the debt, utilities, upkeep and taxes.
- ▶ Need to specify how to choose a listing agent, determine and reset sales price, who decides and who pays for work done to get the property saleable.
- ▶ Need to include an impasse resolution process to avoid a special master.

Distribution of Real Property and Related Issues continued

- ▶ 3) One party is awarded the property and all the secured debt and balances the division with other property.
- ▶ 4) One party is awarded the property and all the secured debt but owes other party money for part of the equity.
 - ▶ Called an Equitable Lien.
 - ▶ May be for half the equity or some other amount depending on the total assets division.
 - ▶ Secured by a Promissory Note and Deed of Trust.
 - ▶ The Deed of Trust is junior to any prior encumbrances.
 - ▶ Interest rates generally set at 3% - 6% in this market.
 - ▶ Duration before payment depends on the circumstances.

Best Practices in Transferring the Property and Creating the Equitable Lien

How to avoid going back to Court.

- ▶ Transfer the property with a Quit Claim Deed.
- ▶ Awarding the property in the Decree is not enough because most title companies require a QC Deed.
- ▶ Best Practice: Prepare, execute, and deliver all the transfer and security document before the entry of the Decree.
- ▶ Include instruction that the Deed is not recorded until the Decree is entered.
- ▶ If you wait until later it gets harder (eroding good will, locating the other party, etc).

Best Practices in Transferring the Property continued...

- ▶ If the documents are to be prepared later specify in the Decree what must be executed and set specific deadlines, interest rate, and all other agreed or court ordered provisions.
- ▶ Never sign and deliver the Quit Claim Deed without receiving the executed Note and Deed of Trust.
- ▶ Be sure the debt(s) on the Property are listed in the debts section of the Decree to be paid by the party who is awarded the property.
- ▶ Just listing the amount owed in the Decree is not secured and is bankrupttable.
- ▶ A Judgment in the Decree m not give the same notice to subsequent buyers / lenders and is much harder to enforce upon default.
- ▶ Without a recorded Deed of Trust, the debt may not show up as a secured interest in the property.

What if the other party later refuses to sign the Deed of Trust and Note?

- ▶ File a Motion for Contempt.
- ▶ If that does not work, file a motion asking the court to designate someone else to sign the documents.

Must the party keeping the property refinance the property?

- ▶ Not unless the Decree specifically requires it.
- ▶ Triggering events must be specified.
- ▶ Rarely ordered at trial, usually by agreement.
- ▶ Be sure to be specific in the Decree as to date to refinance, interest rate and other terms.
- ▶ Include a penalty provision if refinance is not done timely.

What happens if the other party does not pay the Debt?

- ▶ Nothing good.
- ▶ “Marriage gives each party the inalienable right completely trash the credit of the other party.” Anonymous
- ▶ The Deed of Trust does not give rights to reenter or take back ownership of the property unless foreclosed upon.
- ▶ No deficiency judgment can be taken against either party or the original unpaid first Deed of Trust.
- ▶ Both parties remain liable for any unpaid balances on any second, third or fourth mortgages.
- ▶ If the party holding the Deed of Trust pays the bank to save their credit, the only recourse is the hold harmless provision.
- ▶ Your position at a Trustee’s Sale is junior to all secured parties with Deeds of Trust or Judgments filed prior to yours.

What happens when the property gets sold and equity exists?

- ▶ “The Gamble – Win or Lose?”
 - ▶ If the property has lost value since the Decree was entered, the party with the Deed of Trust gets paid first if enough equity exists.
 - ▶ The party owning the property gets what’s left, if anything.
 - ▶ If the property has gained value since the Decree was entered the party owning the property gets to keep the increase.

Property without Equity or Property in Foreclosure

- ▶ Consider one party living in the residence until Foreclosure is imminent.
- ▶ The court will probably assign a zero value.
- ▶ If Bankruptcy is inevitable, both parties should file together before the case is finalized.

Mobile Homes

- ▶ Mobile homes are not real property, they are classified and taxed as personal property.
- ▶ A mobile home expert should value the property.
- ▶ If the mobile home is located on real property owned by the parties may need two different appraisals.

Time Shares

- ▶ Not really a real property interest.
- ▶ Valuation not easy takes finding someone to appraise the interest, but that is not easy.
- ▶ There are secondary buyers and sellers on the internet but there are hearsay problems.
- ▶ Owner opinion with confirmation by internet search may work.

Retirement Accounts, Pensions, and other Employee Benefits

IRA, Roth IRA, KEOUGH, SEP IRA and Other Pretax Accounts Held in the Party's Name

- ▶ These are not Employee Retirement Accounts
- ▶ Value based on the Account Statements.
- ▶ Determine if there is any Separate Property interest.
 - ▶ Not presumed community simply because deposits made both before and after marriage.
- ▶ Transferable order in the Decree or QDRO.
 - ▶ Talk to the account holder for specifics Decree language and/or process for transfer.
 - ▶ Must identify the account by name and number.
 - ▶ Must clearly state the amount of the account transferred.

IRA, Roth IRA, KEOUGH and Other Pretax Accounts Held in the Party's Name continued

- ▶ If the entire account is being transferred, the account name is changed.
- ▶ If only part is being transferred, the transferee sets up a new account and the funds are transferred to that account.
- ▶ Must be done from account holder to account holder and within a year of the Decree to avoid a taxable event.

Cash Value Retirement Accounts (401K, 457 Plans, 403(b) Plans)

- ▶ Usually accounts available through employment.
- ▶ Funds are taken pre-tax from earnings and/or contributed by employers.
- ▶ Held by a third party usually an Investment Company or by the Employer
- ▶ Value based on the Account Statements.
- ▶ Determine SP and CP of the account.
- ▶ Must be awarded to one or both parties in the Decree.

Cash Value Retirement Accounts (401K, 457 Plans, 403(b) Plans) continued

- ▶ Transfer of any interest in the account to the non-account holder requires a Qualified Domestic Relations Order (QDRO)

QDRO Key Practice Tips:

- ▶ The Form is crucial for each company or fund.
- ▶ Call the QDRO Department and get their form.
- ▶ Prepare the QDRO based on their form and sent it to the Administrator for approval.
- ▶ Various ways to define the amount transferred
 - ▶ Fixed dollar amount
 - ▶ Fixed dollar amount plus earnings or less losses from the date of the order
 - ▶ Percentage of the account on a set date

Financial Planning Tip

- ▶ A lump sum payment paid directly to the transferee from the transferring funds pursuant to a QDRO are exempted from the 10% early withdrawal penalty.
- ▶ Must be done **as the funds are being transferred**.
- ▶ This applies to IRA accounts as well as 401K, 457 Plans, 403(b) Plans (employee or private retirement accounts).
- ▶ With some accounts there are certain time limits, usually 30-60 days after entry of the order.
- ▶ <http://qdrodesk.com/>

Defined Benefit Retirement

- ▶ **Month Payments for Life**
- ▶ Less common than cash value accounts and getting rarer.
- ▶ Generally State or Military Retirement Plans.
- ▶ Still available with some private companies.
- ▶ Determine the CP or SP character of the pension.
 - ▶ Usually decided by time married of marriage as a fraction of the time of employment.
- ▶ Must be awarded to one or both parties in the Decree.
- ▶ Again, not presumed to be Community simply because of accrual of benefits before and after marriage.

Ways to Divide Monthly Payment Pensions

- I) Divide the future monthly payment between parties
 - ▶ Payments made to each party directly
 - ▶ Benefits:
 - ▶ Avoids valuation issues
 - ▶ Pension is paid to each party for life
 - ▶ Requires (QDRO) or similar order to transfer a portion to the non-account holder.
 - ▶ Get the form from the employer or account holder
 - ▶ See Materials for sample QDRO's and State retirement form

Sample Ways of Dividing the Pension

- ▶ a. The Plan shall pay directly to the Alternate Payee a monthly pension benefit of _____% of the Participant's accrued monthly pension benefit as of March 15, 2012.

- ▶ b. The Plan shall pay directly to the Alternate Payee a monthly pension benefit of \$ _____ of the Participant's accrued pension benefit.

- ▶ c. Fraction Method
$$50\% \times \frac{\text{total months married}}{\text{total months of participation in the plan}} = \text{spouse's retirement payment}$$

▶ To

Ways to Divide Monthly Payment Pensions continued

- 2) Award the Present Value of the pension earned to date to the party earning the pension.
- ▶ What is the Present value of a Pension?
 - ▶ It is the lump sum money necessary to invest today to pay the accrued monthly pension amount beginning at the party's retirement date to the end of his life expectancy.
- ▶ Key Facts Necessary
 - ▶ Age of party
 - ▶ Life Expectancy
 - ▶ Retirement Date
 - ▶ Discount Rate (presumed interest Monthly payment earnings on the lump sum)
- ▶ Requires an actuary to calculate the amount.
- ▶ Value usually a **much larger amount** than the contributions.

Sample Benefit Calculations (numbers rounded)

- ▶ Enrolled in PERS 2 in 1994
- ▶ As of January 1, 2011:
 - ▶ Employee had 198 Service Credit Months (16½ years) and was age 44
 - ▶ Employee-paid contribution account balance (including interest) was \$38,500
 - ▶ Five-year average monthly compensation was \$5,300
 - ▶ Total monthly pension earned as of 1/1/2011 was \$1,749 per month payable at age 65

Approximate present value of future pension, using a discount rate of 4.25%, is \$131,000

- ▶ Life expectancy at age 44— approximately 33.05 years
- ▶ Years until payout begins – 21 years
- ▶ Payout duration - 12.05 years

Estimate lifetime payout - **\$252,905**

▶ (Thanks to Evan Dallas, evand@prghr.com)

Interesting SP/CP Argument

- ▶ In relationships where most of the pension accumulated before the parties married, the new spouse argues that that the amount of pension accumulated during marriage should not simply a fraction of the whole but weighted by calculating the pension increases that occurred during marriage when the other spouse's income was at its highest.

Disability Benefits Taken in Lieu of Retirement Benefits

- ▶ Attractive because disability benefits are not taxable.
- ▶ Generally divisible between parties if truly taken in lieu .
- ▶ Not divisible if received during party's work life as an income replacement.
- ▶ If truly retirement replacement, benefits they are divisible as the monthly payments discussed above.
- ▶ Must follow the disability account holders rules to divide.

Stock Options

- ▶ Stock Options accumulated during marriage are community.
- ▶ Stock Options can be vested and exercisable, unvested and exercisable, and unvested requiring continued employment or some other action.
- ▶ Some stock options are available for purchase with pre-tax dollars deducted from employee paychecks which are immediately vested and owned by the employee.

Community and Separate Property Concepts Apply to Stock Options.

- ▶ Stock Option values are the difference between the price to exercise the option and the price of the stock at the time of valuation. The option price may vary depending on when they were acquired.

Military Retirement Benefits

- ▶ Federal law permits state laws to determine whether a military retirement can be divided between the party's Public Law 97-252 Service Former Spouse's Protection Act
- ▶ 20 Year Rule - A military member is not entitled to receive a retirement unless he serves 20 years.
- ▶ 10 Year Rule – the non-service member cannot receive payments paid to him or her directly from the military unless he/she has been married to the service member for 10 years of his/her military service.
- ▶ Fifty Percent Rule - No more than 50% of a service member's pension may be paid directly to the non-service member.

Military Retirement Benefits continued

- ▶ A Court Order is required.
- ▶ In general after 20 years the Service Member is entitled to 50% of his/her base pay. There Thereafter the pension increases by 2.5% for each year of service up to 75% of the base pay.

What if 10 year rule has not been satisfied when the parties separate?

- ▶ It is possible to do a Present Value Calculation of the amount earned.
- ▶ There are ways to calculate the retirement earned to date.
- ▶ But, there is no certainty service will continue until 20 years.
- ▶ Present Value is usually large because the payments begin at a fairly early age and continue until death.
- ▶ It is possible to have the court order that if he does eventually qualify for a pension then the non-service member will receive 50% of the fraction of married years / total years of service.
- ▶ But there are problems – keeping track of the service member, collection, etc.
- ▶ But it is possible to have a voluntary allotment sent from the retirement to the non-service member.

Setting up a division of retirement benefits requires lots of forms beyond the Decree. (See Materials)

Useful information with more detail:

- ▶ http://www.texasfamilylawinfo.com/docs/Higdon-Military_Retirement_Divorce.pdf
- ▶ www.dfas.mil/dms/dfas/garnishments/pdf/garn_attorneyinstruct.pdf

What if part of the service member's retirement is converted to a VA Disability?

- ▶ No part of a VA Disability can be divided in a dissolution.
- ▶ State case law allows VA benefits to be considered in setting child support and/or maintenance.
 - ▶ Marriage of Correia, 47 Wash.App 421, 735 P.2d 691 (1987)
 - ▶ Marriage of Jennings, 138 Wash 2d 612, 980 p.2d 1248 (1999)

Social Security Benefits

- ▶ Social Security is not a benefit susceptible to treatment like a pension and cannot be divided or awarded.
- ▶ The rationale from case law is that Federal Law in this area preempts state law and that Social Security is not a contractual right.
- ▶ The Social Security system permits a person at retirement to choose the greater of his/her benefits or one half of the benefits of the spouse.
- ▶ A divorcing spouse over the age of 62 has the choice of taking the full benefits of a former spouse who has died if the marriage lasted 10 years or longer.

??? QUESTIONS???