

I Received an Inheritance – Will I have to Share the Money with My Ex-Spouse?

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The answer to this question can go in two different directions, depending on what the recipient did with the money. When evaluating a divorce, most states view inherited funds as separate property, whether those funds were received before or after the marriage. In Maryland (and in the vast majority of states), inherited funds are considered separate, or non-marital property. Here is the catch, though: the designation of “separate” can change based on what the recipient did with the funds.

Generally, marital property is subject to division in a divorce, while separate property is not. However, inherited funds that start out as separate property can become marital property if they are “commingled”—i.e., turned into marital property by using the money for things like remodeling the marital house, paying for a vacation, paying off bills, or other similar things that benefit both spouses.

Here are some other specific examples of comingling:

- If one spouse inherits a house and then adds the other spouse's name to the deed, the inherited house then becomes a comingled asset.
- If one spouse receives funds and then puts the money into a savings account for a significant period of time under both their name and their spouse's names, those funds are now comingled and considered marital property.
- If one spouse uses inherited funds to renovate the marital home, which is titled in both spouse's names, the inherited funds become comingled.

Because comingling can happen so easily and unintentionally, some couples opt for a postnuptial agreement when they inherit funds. This is an agreement that happens after marriage, wherein the parties agree that the inherited funds used for the renovation, vacation, or other mutually beneficial activity shall be and remain the inherited party's sole and separate non-marital property, free and clear of any interest of the other spouse.

It's wise to consult with an experienced family law or divorce attorney when one receives a large sum of money from an inheritance. Even if the recipient decides not to pursue a postnuptial agreement, being aware of what actions would be classified as comingling can be extremely helpful when deciding how to use the funds.

If you have any questions on this topic, please contact Sandra Brooks at sbrooks@offitkurman.com or 240.507.1716.