

What Happens to My Business During Divorce?

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Divorce is a challenging and emotionally charged process, and when business ownership is thrown into the mix, it can become even more complex. For business owners, the stakes may be high, as the outcome of a divorce can significantly impact the future of their business.

One of the initial steps regarding a business is to value the business or the owner's interest in the business. Business valuation often involves assessing the company's financial statements, assets, liabilities, and future earning potential. This process can be intricate and usually requires the expertise of financial professionals, such as forensic accountants or business valuation experts.

In many jurisdictions, marital assets, including businesses, are subject to equitable distribution. Equitable distribution does not necessarily mean equal distribution but rather what is deemed fair and just by the court. Factors such as the contribution of each spouse to the business, the length of the marriage, and each party's financial and non-financial contributions are considered during this process.

There are several potential outcomes for the business in a divorce:

1. One spouse may choose to buy out the other's share of the business, allowing them to retain sole ownership. This buyout is typically based on the valuation of the business and the agreed-upon terms negotiated during the divorce proceedings.
2. In some cases, divorcing spouses may opt for continued co-ownership of the business. This arrangement requires a well-defined and often legally binding agreement outlining each party's responsibilities, decision-making authority, and financial contributions.
3. Another option is to sell the business, with the proceeds being divided between the spouses according to the terms of the divorce settlement. The sale may be facilitated either on the open market or through a negotiated private sale.

To protect their interests, business owners can take proactive measures before and during marriage. Implementing prenuptial or postnuptial agreements that specifically address business ownership can provide clarity in the event of a divorce. These legal documents can outline how the business will be valued, divided, or managed in the event of marital dissolution.

Navigating the complexities of divorce and business ownership requires the expertise of professionals. Engaging attorneys with experience in family law and business matters is important. Additionally, financial experts, such as forensic accountants or business appraisers, can provide valuable insights into the financial aspects of the business and assist in the valuation process.

When businesses are an issue in divorce, interest owners should be prepared for an examination of their business and its financial intricacies. By seeking professional guidance, understanding their legal rights and responsibilities, and exploring the available options, business owners can increase the likelihood of reaching a fair and equitable resolution during this challenging time.