Staying on course

Separation, divorce and your finances

This guidebook provides ideas and suggestions to help you stay on course during separation and divorce. While it is designed as a comprehensive resource, it cannot replace the value of professional legal and financial advice that addresses your unique situation. Before you decide to proceed with separation or divorce, you should consult your professional advisors, including a relationship counsellor.

Separation, divorce and your finances

For many reasons, relationships that we hope will stand the test of time sometimes don't. If you find yourself going through a relationship breakdown, coping with the emotional aspects is just one step in a long journey. There are also many legal and financial issues that need to be addressed – whether your relationship is common-law, a civil marriage or a civil union.

If you have children, custody and access issues will have to be worked out. Financial support for you, your children or your spouse must also be considered. In addition, the division of property needs to be settled.

Managing your finances can be challenging even in the best of times. However, it is often the decisions that you make, or don't make, during transitional periods in your life that will have the most impact on your overall financial picture.

Whether you are currently contemplating a separation from your spouse, or you are in the final stages of divorce, it's never too early, or too late, to start planning your own finances. Even if you remain with your partner, or reconcile at a later date, it is a good idea to know where you are at, and where you are going, financially.

How relationships are defined in Canada

MARRIAGE

In Canada, the responsibility for marriage is divided between the federal and provincial governments. The federal government is responsible for the definition of marriage and for laws governing divorce, while the provinces are responsible for the licensing and registration of marriage.

LEGALLY RECOGNIZED RELATIONSHIPS

Civil marriage

Governments are concerned only with civil marriage. Religious marriages, by themselves, have no legal effect. The difference between religious and civil marriage is often invisible in Canada. In most provinces, religious officials are licensed to simultaneously conduct the religious and civil marriage.

Civil union/domestic partnership

A civil union or domestic partnership is different from a civil marriage. It is a registration system that allows two individuals to register their relationship in order to trigger legal consequences. This system is only available in certain provinces.

Common-law relationships

Common-law relationships are legally recognized in Canada, provided that the couple can show they have been living in a marriage-like relationship for a certain amount of time. Under most federal laws, that time is one year. Under most provincial laws, it is two or three years.

SAME-SEX MARRIAGES

In December of 2004, the Supreme Court of Canada ruled that a federal proposal to extend marriage rights to same-sex couples would be constitutional.

In this guide, we use the term "spouse" to refer to all the above relationships.

Getting organized

MAKE A LIST OF YOUR ASSETS AND LIABILITIES

The first step you should take, regardless of what stage in the relationship breakdown you may be in, is to organize your financial affairs. This involves finding out exactly what assets you and your spouse own and what liabilities the two of you may have.

By knowing the financial positions of both you and your spouse, you can gain some insight into your net worth should you formally end your relationship. This can help protect you from the possibility of your partner disposing of assets without your knowledge, or simply not disclosing them to you.

In addition, you will need to provide this information to the professional advisors who are helping you get your financial life back on track. Some of the information you should gather includes:

- Birth and marriage certificates
- Will and power of attorney documents
- Marriage contracts/domestic agreements
- Title deeds to your home and any other property you own
- Ownership records for your motor vehicles
- Investment account statements
- Tax returns for you and your partner for the past three to five years, if possible
- Retirement account statements such as Registered Retirement Savings Plans (RRSPs) and Registered Retirement Income Funds (RRIFs)
- All insurance policies (such as home, auto and life)
- Stock option plan statements
- Shareholder / partnership agreements
- Company pension statements
- CPP information statements
- Current bank account statements
- Current credit card statements
- Most recent mortgage statement
- Promissory notes or evidence of family loans
- Current statements of all other outstanding loans

FIGURE OUT YOUR SOURCES OF INCOME

Except in the most amicable cases, should you proceed with separation or divorce, it will normally take a period of time before your financial affairs are resolved. During this period, you will need to know what sources of income you will receive to support yourself and any dependants.

Sources of income can include employment income, interim spousal and/or child support, income from your investments, and income from retirement vehicles like your RRSP or RRIF.

ESTABLISH YOUR OWN CREDIT

It is important to establish your own credit record so that you will have the ability to get credit if needed. If you have never had a credit card in your own name, consider applying for one. You may want to do this even before deciding whether or not to separate. Once you have established your own credit, you should think about when you should close all joint credit card accounts.

You should also contemplate getting a line of credit in case you have a temporary need for cash while your financial affairs are being settled. The interest charges associated with a line of credit are generally much lower than credit cards. In addition, you should notify all other known creditors (such as your mortgage representative or bank loan officer) of your change in status. If possible, you should ensure that your spouse cannot further bind you to any new debt.

OPEN YOUR OWN BANK ACCOUNT

If you do not have a bank account in your own name, you may want to open one. Once you have your own bank account, consider closing any joint bank accounts shared with your partner. If any joint accounts need to remain open, ask that both signatures be required before any transactions are made. You should also think about revoking any bank powers of attorney that you have given in favour of your partner.

NOTIFY YOUR FINANCIAL ADVISORS OF YOUR STATUS

If you hold any investment accounts in joint names with your spouse, make sure you notify your financial advisors of your status. You may want to rescind any trading authorization granted to your spouse.

Finding the professional help you need

The next step is to seek professional assistance to guide you through the separation and divorce process. These professionals – lawyers, accountants, and financial services experts – can help you address the various legal and financial issues that arise during a relationship breakdown.

If you are unsure where to get the professional assistance you need, an RBC advisor can refer you to qualified professionals. And if you already work with professional advisors like lawyers and accountants, an RBC advisor can work with them to ensure all aspects are considered in helping you stay on track financially.

YOUR LAWYER

The process of legally ending your relationship involves many technicalities that can affect your well-being – and that of any children you may have – for many years to come. To help you through this process, it is important to seek the assistance of a qualified family lawyer.

Even if you and your partner are able to agree on how to divide your property and settle issues related to children, it is still worthwhile to consult a family lawyer to ensure that you are fully aware of your rights and entitlements.

Some of the issues your lawyer will help negotiate on your behalf include:

1. The amount of spousal support

If you are married (or for most provinces and territories if you are in a common-law relationship) you may be entitled to receive spousal support from your partner. The amount and duration of any spousal support awarded will generally depend on the needs, means and other circumstances of each partner. Spousal support can be awarded on an interim, lump sum, or fixed-term basis. It can also be varied.

2. The amount of child support

Most provinces and territories have child support guidelines that set out the amount of child support to be awarded. This amount is generally fixed according to the annual income of the person providing the support, as well as the number of children involved. The guidelines may not apply in cases where a child is over the provincial age of majority or the person providing support earns in excess of a certain amount of income. In addition, there may be other special circumstances.

3. Parenting arrangements for children

Your lawyer will help you negotiate the terms and conditions around custody and access to your children if you have any. Custody and access matters are generally resolved by considering the best interests of the children, taking into account their physical, emotional, intellectual and moral well-being.

4. The division of family property accumulated during the relationship period

Married and civil union partners are generally entitled to an equal division of property accumulated during the marriage. In some provinces, common-law partners also have this sharing right. Your lawyer will be able to help you understand and determine what kind of property is subject to division, how the property is valued, and how the sharing of property will be achieved.

YOUR ACCOUNTANT

You should also seek out the help of an accountant to help you work through the various tax implications associated with separation and divorce. Your accountant may also be able to help you determine the current value of your or your partner's pension plan or the fair market value of any jointly owned business. In addition, your accountant can help you prepare long-term personal financial projections that can be used by your lawyer in settlement negotiations or to determine the viability of any proposed settlement option.

As in choosing a lawyer, you should choose an accountant who is experienced in family law matters and who you feel comfortable with.

Some of the common tax issues arising from a relationship breakdown include:

1. Child support payments

For any child support payments made after April 30, 1997, pursuant to a court order or a written agreement, the payments are neither taxable to the recipient nor deductible by the person making the payment.

2. Spousal support payments

The payments are taxable to the recipient and deductible by the person making the payment.

3. Lump sum payments

Since these payments are not periodic, they are not considered child or spousal support payments. As a result, they are neither taxable to the recipient nor deductible by the person making payments – unless they represent arrears of periodic support payments.

4. CPP / QPP splitting

CPP / QPP benefits accumulated during the relationship period may be split between married, civil union or common-law partners (where applicable).

5. Legal fees

Legal fees paid after October 2002 to get a divorce, establish custody rights, or to receive or revise support payments are deductible for tax purposes. Fees incurred prior to this date are not deductible.

6. Transfer of capital property

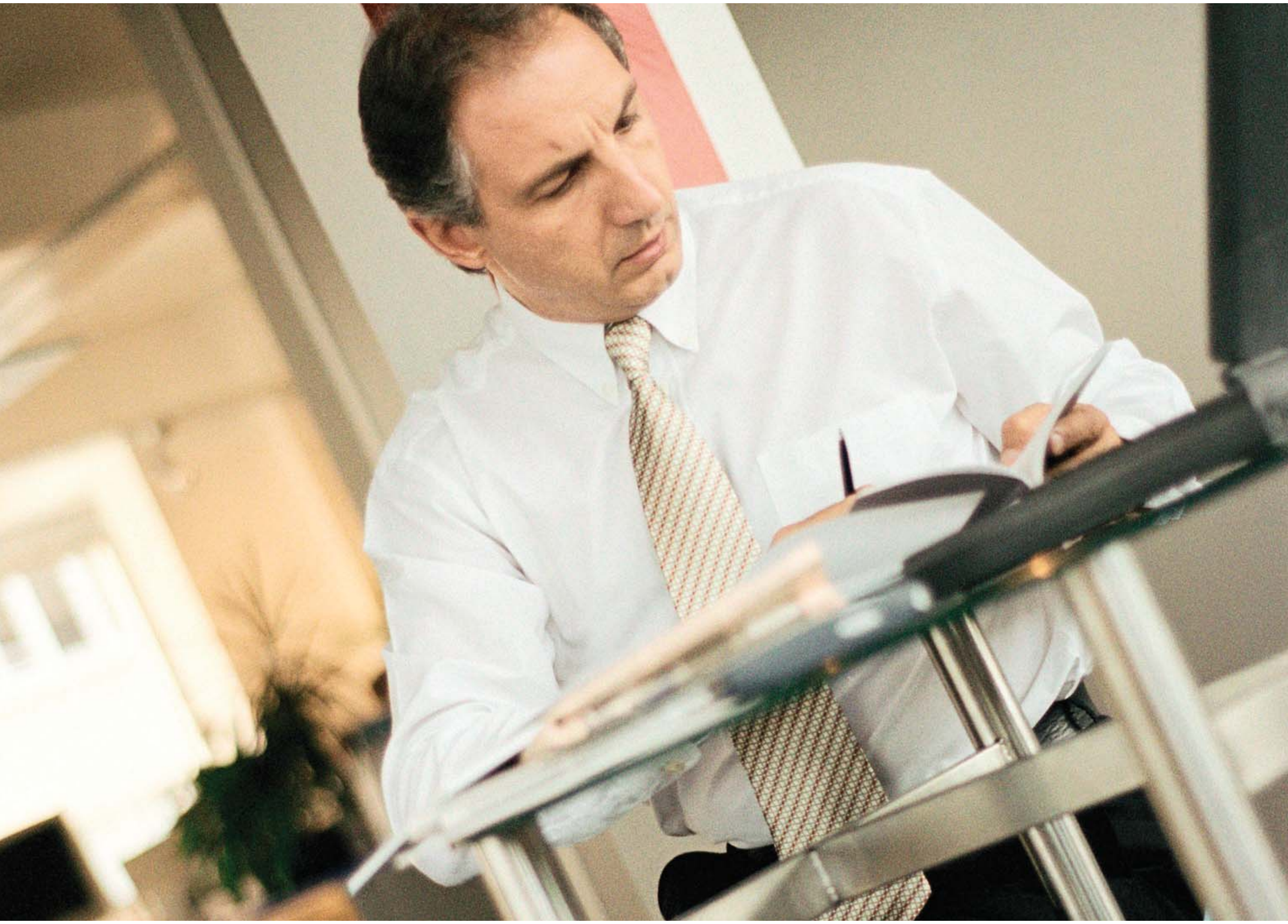
Property may be transferred from one partner to another at the cost of the partner making the transfer, if the transfer is in settlement of rights arising from the relationship breakdown. This way, the partner who transferred the property will not be subject to any tax consequences resulting from the transfer. If desired, property can also be transferred between partners at fair market value. However, in this case, there are potential tax consequences to the partner making the transfer.

7. Transfer of registered plan assets (such as RRSP and RRIF)

Assets held in an RRSP or RRIF can be transferred on a tax-deferred basis from one partner to another pursuant to a court order or written agreement in settlement of their rights upon a relationship breakdown.

8. Attribution rules

The attribution rules are a set of tax rules designed to prevent income splitting between higher and lower income partners. The rules basically tax the higher income partner on any investment income earned by a lower income partner on assets contributed by the higher income partner. These rules cease to apply upon a relationship breakdown.



YOUR ADVISORS

Financial advice

In addition to a lawyer and accountant, you should also seek the assistance of a qualified advisor. By knowing the details of your personal financial situation and understanding your goals and objectives, this person will be able to work closely with your lawyer and accountant to achieve a financially equitable settlement that is right for you.

You may wish to explore the possibility of creating a financial plan with your advisor. A financial plan will address questions such as: Can you afford to keep the house? Do you have enough money to retire? What kind of lifestyle can you afford?

The following are some of the other services your advisor can help you with:

- Analyze your cash flow
- Determine your interim and long-term needs
- Estimate the education costs for your children
- Facilitate the transfer of investment or retirement assets from your former partner
- In conjunction with your other professional advisors, your financial advisor can assist with the preparation of your net-worth statement and budget

Determine your net worth

Your advisor will be able to help you determine and update your net worth periodically over the course of the divorce. A sample net-worth worksheet (Appendix 1) is enclosed to help you determine your current net worth. You can get an idea of what you have to work with by subtracting your total liabilities from your total assets. Don't forget to include the value of a family business or any shared property, such as your home, in your calculation.

Set your goals and priorities

Once you have determined your net worth, you should set your financial goals and priorities, both for the immediate future and long term. While not an exhaustive list, some of the most common short-term goals and objectives could include:

- Securing a sufficient cash flow to pay expenses
- Maintaining an adequate standard of living for you and your dependants until your financial matters have been resolved
- Ensuring adequate disability insurance coverage to protect you and your dependants in the event of personal disability
- Making sure you have sufficient life insurance coverage to protect your dependants
- Updating your Will

Your long-term goals and priorities could also include:

- Securing sufficient funding for your retirement
- Providing for the education of any children
- Developing and implementing a new estate plan

Develop a budget

To achieve your goals and objectives, you may have to limit the amount of money you spend. Your advisor can help you develop a cash-flow analysis that details your income and expenses, as well as a personal budget that will help you determine what you can safely spend to achieve your goals and objectives.

The following are some suggested guidelines on your income and expenses:

- Mortgage or rent payments each month should add up to less than 30% of your monthly net income
- Total debt, excluding your mortgage, should be less than 20% of your net income

Ongoing childcare expenses might also need to be considered, as will the cost of replacing any items you have lost.

You can use the sample cash flow worksheet in Appendix 2 to help you get started on developing your own budget.

Investment advice

Once you have figured out your net worth and established a budget, it's time to put your assets to work. If you haven't already established one, you will most likely want to open an RRSP. You may also need to open a non-registered investment account.

Depending on your situation, you may require professional assistance with your investments. An investment specialist can help you clarify your investment objectives, and create a plan to achieve them.

Develop an investment plan

Your advisor's first – and most important – job is to listen to you and understand your personal situation and investment needs. Based on this information, your advisor can help you establish your investment objectives, then create your investment plan. If you receive a settlement, you may want to set aside the proceeds in safe, liquid investments until your investment plan is developed.

Once your plan has been agreed upon, your advisor can recommend an appropriate blend of investments that will help turn your objectives into achievements. Your goal is to have a mix of investments (such as mutual funds, stocks and bonds) that is suitable for your life stage and risk tolerance.

It is important to stick with your investment plan over the long term. Making hasty adjustments in reaction to short-term market volatility can impede progress towards achieving your financial goals. Instead, necessary and appropriate adjustments should be made through a disciplined process of regular monitoring and review.

Estate planning

At the same time you are developing your financial plan, you should also consider your estate plan. Careful estate planning ensures that your assets get distributed in accordance with your wishes after you are gone or if you become physically or mentally incapacitated. This usually implies updating both your Will (such as changing your beneficiaries) and any powers of attorney you may currently have.

A Will is a legal document that takes effect upon your death. It outlines how you want your property distributed to your beneficiaries and appoints an executor (liquidator in Quebec) to act on your behalf and carry out your wishes. Though the law varies from province to province, a separation or divorce can affect the validity of your Will. A power of attorney is a document that empowers an individual to act on your behalf if you are unable to make decisions on your own.

Establishing a trust through your Will or during your lifetime to look after your beneficiaries is another option you may wish to consider. Trusts enable your beneficiary to benefit from your assets without directly controlling them.

Insurance planning

Insurance can also play an important role in the preservation of wealth. For example, insurance can help you leave a lasting legacy for your family or other beneficiaries of your estate. Often, tax obligations against your assets are triggered upon death. These obligations are frequently met by liquidating the assets of your estate. A life insurance benefit can cover this obligation and leave the estate intact. An insurance professional can help you navigate the complicated world of insurance products and solutions and suggest those options appropriate for you.

Going through a relationship breakdown can be a confusing and stressful experience. Your professional advisors can help you cope during this difficult time, and provide the expertise you need to achieve an equitable settlement and organize your financial and legal affairs.

HELPING YOU DURING TIMES OF TRANSITION

At RBC Financial Group, we understand how important it is to get the support and guidance you need during times of transition in your life, like separation and divorce. No matter how complex your situation, we can assist with a broad range of financial and investment solutions:

- Whether you need to set up a new account, get a new credit card, establish a line of credit or arrange a loan, we can help.
- Planning for your retirement and want to ensure there is money set aside for the education of your children? We have the answers to any questions you may have about RRSPs and Registered Education Savings Plans (RESPs).
- We can provide investment strategies and solutions appropriate for your situation. No matter your level of investment experience, or the degree of assistance you require, we can help you achieve your investment objectives.
- We can assist with estate planning and wealth protection – whether you want to create an estate for your heirs, minimize the financial burden on your loved ones in the event of your passing, or ensure your personal savings are not jeopardized by the unexpected.
- For business owners, we offer a broad range of services, including banking, financing, investing, insurance, group financial services, plus succession and continuation planning.

Net-Worth Worksheet (Appendix 1)

ASSETS		CURRENT VALUE
Liquid assets	Bank accounts	________
	Money market funds	________
	Certificates of deposit	________
	Treasury bills	________
	Cash value of life insurance	________
	Other	________
Investment	Stocks	________
	Bonds	________
	Stock mutual funds	________
	Bond mutual funds	________
	Other mutual funds	________
	Other	________
Tax-deferred investments	Employer savings plans	________
	Pension (lump-sum value)	________
	Accumulated value of annuity	________
	Other	________
Personal property	Principal residence	________
	Vacation home	________
	Rental property	________
	Partnership or business ownership	________
	Cars, trucks, boats	________
	Home furnishings	________
	Art, antiques, coins, collectibles	________
	Jewelry, luxury items	________
	Other assets	________

Total Assets $

LIABILITIES		
Current	Credit card balances	________
	Margin loans on securities	________
	Estimated income tax owed	________
	Other outstanding bills	________
Long-term	Mortgages	________
	Home-equity loans	________
	Car loans	________
	Tuition loans	________
	Life insurance policy loans	________
	Other long-term debt	________

Total Liabilities $

Total Net Worth (Total Assets minus Total Liabilities) $

Cash Flow Worksheet (Appendix 2)

INCOME	CURRENT VALUE
Wages, salary, commissions and bonuses	____________
Self-employment	____________
Dividends, interest and capital gains	____________
Annuities, pensions and Canada/Quebec Pension Plan	____________
Trusts, estates and insurance	____________
Real-estate rentals	____________
Other sources	____________
Total Income $	

EXPENSES	
Mortgage/rent	____________
Housing expenses (taxes, condominium or co-op fees,	____________
homeowner's or renter's insurance, and utility bills)	____________
Food	____________
Clothing	____________
Cosmetics/toiletries	____________
Entertainment	____________
Transportation (car payments, insurance, fuel and repairs)	____________
Travel/vacations	____________
Non-reimbursed medical-care expenses and health insurance payments	____________
Credit-card bills	____________
Income-tax payments	____________
Life/disability insurance	____________
Tuition	____________
Dependent care (parent or child)	____________
Gifts and donations	____________
Subscriptions/dues	____________
Other expenses	____________
Total Expenses $	
Total Income Available to Invest	
(Total Income minus Total Expenses) $	

For more information about how we can help you stay on course, please contact your RBC representative.

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