

DIVORCE EXAMPLES

EX. 1) No MPA. Before the date of marriage, H inherited a house, which was paid off in full, and \$50,000, which he put into a savings account with a \$0 balance. At the time of divorce, H still owns the house and the savings account, which now only has \$10,000. Throughout the marriage, H used the savings account to pay all of the expenses related to the house (taxes, repairs, maintenance, etc.). He did not deposit any additional money into his savings account during the marriage, and he transferred all the income from the savings account to his joint checking account with W.

Both the house and his savings account are individual property because they were inherited funds and not commingled with marital property. (The interest from the savings account during the marriage is marital, which is why he moved it to a marital asset each month so as to not commingle.)

EX. 2) Same as above, except that the house still has a mortgage. Throughout the marriage, H uses solely his income to pay the mortgage and expenses related to the house.

The house is now marital property because he used marital property (his income) on the house, thus commingling the assets.

EX. 3) No MPA. Before the date of marriage, W owned a house. Immediately after the marriage, W sells her house and uses the proceeds from the sale for a down payment on a new house purchased with H. They both use their income to pay the mortgage on the new house.

The new house, and W's down payment, are marital. The law presumes that the down payment from W is a gift from her to H.

EX. 4) No MPA. W inherits \$100,000 during the marriage. She puts the full amount into her investment portfolio. She also contributes her income to her investment portfolio during the marriage.

W would have to successfully trace her inheritance to keep it her individual property.

CREDIT EXAMPLES

EX. 1) H incurs a medical bill during the marriage. The divorce judgment assigns this medical debt to H. After the divorce, the creditor pursues W for payment of this medical debt. What are W's rights?

Creditor cannot pursue W's income because she did not incur the debt. Creditor can pursue any marital property awarded to W under the divorce judgment, up to the value of the asset as of the date of divorce.

*If the medical debt is categorized as a necessity/support obligation and not a family-purpose obligation, then the creditor can pursue all income and assets of W.

EX. 2) Same as above, except that the divorce judgment assigns the medical debt to W. What are H's rights?

Creditor can pursue H's income and assets as the incurring spouse.

EX. 3) H engages in embezzlement and is ordered to pay restitution. W divorces H. What are W's rights?

Creditor cannot pursue W for H's restitution because it is a tort debt. Creditor's claim is limited to H's nonmarital assets and H's share of the marital assets.