# Foundations of Financial Forensics

## Part Five | Family Law Forensics

Consultants' Training Institute

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## Family Law Forensics

This session will explore the roles of the forensic accountant in Family Law/Matrimonial (divorce) proceedings, including the process that occurs in divorce actions.

Topics to be covered are what constitutes marital property, what constitutes alimony and support, the tax aspects of property divisions, and methods that spouses have used to conceal assets and practice management of a family law services practice.



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## Family Law Forensics

Family Law forensics is a specialized area of forensic litigation services.

When providing these services the practitioner needs to pay special attention for two reasons:

- Marriage is a relationship recognized by law and conveys certain benefits that don't exist in other types of relationships.
- Many divorces are contentious, and spouses may be motivated to deprive one another of assets due to a deterioration of the relationship. Many times this is an emotion driven process. Practitioner needs to remain professionally skeptical in these engagements.


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## Roles of the Family Law Forensic Expert

Forensic Experts can perform various roles and take on many responsibilities in family law proceedings.

Those roles depend on the wishes the client, attorney and the court.


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## Roles of Forensic Accountant in Divorce Proceedings

| | | |
|---|---|---|
| Expert Witness | Consulting Witness | Identification of Evidence |
| Analysis of Evidence | Valuation | Searching for Assets |
| Tracing Assets | Determining Income | ADR and Settlement Process |


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## Family Law Forensic Accountant – Governed by Professional Standards and the Courts

The work performed by a forensic accountant are governed by professional standards and the courts.

Practitioners acting an expert witness must be seen as objective and performing their duties with integrity.

Remaining objective is not only in the best interest of the client and the court, but it also protects the practitioner's credibility and reputation.

Attorneys are advocate for the client, but family law practitioners must provide objective opinions based on the discovery and evidence and reports their findings. The experts' job is to advocate for their professional opinions.


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## Different Types of Specific Forensic Accounting Assignments In Divorces

- Tracing of Separate/Marital/Community property- usually involves tracking money/assets during the marriage.
- Analysis of the Lifestyle of the Parties; Other Services in High Net Worth Cases
- Other Services-stock options, interest in family residence, etc.
- Income Available for Support/Maintenance- analyzing the income that an individual actually receives


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## Different Types of Specific Forensic Accounting Assignments In Divorces

- Tracing of Separate/Marital/Community property- usually involves tracking money/assets during the marriage.
- Analysis of the Lifestyle of the Parties; Expenses allocated to children
- Other Services in High Net Worth Cases
- Income Available for Support/Maintenance- analyzing the income that an individual actually receives


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## Roles of the Forensic Accountant in Divorce Proceedings

- Courts generally determine whether a practitioner is allowed to testify as an expert witness based on their education, training, certifications, and relevant experience.
- The practitioner's qualifications are verified by direct examination by an attorney and by the opposing attorney on cross examination.
- The court's primary concern is whether the practitioner has an acceptable level of knowledge, understanding, and skill pertaining to the subject about which the expert is testifying.


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## ADR – Alternative Dispute Resolution

- Sometimes Family Law Forensic practitioners can be involved in marital disputes in which the parties desire to avoid a formal litigation proceeding and wish to resolve their disputes by other means.
- Those alterative processes are - Arbitration, Settlement Facilitation, and Mediation – Commonly referred to as Alternative Dispute Resolutions (ADR).
- In these proceedings, the practitioner can serve in many of the same capacities or even a neutral capacity to assist in facilitating settlement.


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## Arbitration

- Arbitration is less formal than litigation.
- An arbitrator considers testimony, exhibits, and arguments from both sides and then make a decision.
- Generally, most arbitration is binding, but it can be nonbinding.
- This processes more like a formal trial with a court reporter and testimony and presentation of evidence.


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## Mediation

- Mediation is an informal method of ADR.
- The Mediator assist the parties by discussing various options for resolving their differences.
- Generally, more of a back and forth process of negotiation and discussion.
- The forensic practitioner assists the mediator in arriving at a mutually agreeable resolution.
- Unless the parties agree, a mediator cannot bind the parties to any decision.


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## Mediation

- IMPORTANT
- If a forensic practitioner fills the role of mediator, he or she must be careful not to offer advice that could be construed as legal advice.


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## Settlement Negotiation

- Settlement facilitation is usually an unstructured, nonbinding meeting with the parties, their attorneys, and a facilitator and may be court-ordered or agreed to by the parties.
- Generally, takes place before deposition and trial but can take place simultaneously with the formal court process.
- Financial forensic professionals often serve as settlement facilitators to assist the parties in resolving economic issue in their dispute.


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## Court Appointed Expert

- Court-appointed expert has the responsibility of providing a knowledgeable, objective, and supported opinion to the judge or jury.
- A court-appointed expert, needs an understanding of matters, such as the form of his or her report, due dates, the manner by which they may communicate with the parties and attorneys, and the procedure by which they can obtain necessary information that could not be obtained through discovery.


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## Mutually Agreed Upon Expert

- *Mutually agreed-upon expert* is a role in which the practitioner performs the similar duties as that of a court-appointed expert, but instead of reporting his or her opinion to the court, he or she reports to the parties involved so that they can use the opinion to resolve certain divorce issues.


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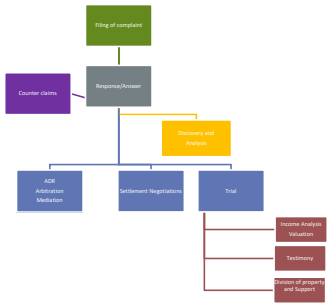
## The Divorce Process

- The divorce process begins with the filing of a complaint by the plaintiff/(petitioner).
- The defendant/(respondent) receives notification of this complaint by being served a summons, which notifies the defendant that a suit against them has been filed.
- Note: If the defendant does not appear or respond to the action, a judgment of divorce may be granted by default. (Default Judgement)


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## Divorce Process





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## Divorce Process

- The *Complaint* - A document that contains the specifics of the action and the grounds on which the divorce is sought (in many states, no grounds are required – No Fault). However, some states do allow for the plaintiff to list a cause of action.
- If the defendant wishes to contest the complaint, he or she serves an answer to the complaint.


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## Divorce Process

- The defendant can admit to the allegation contained in the complaint, deny it, or, state that he or she doesn't have sufficient information to either admit to or deny the allegation.


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## Divorce Process

- The defendant may also file a counterclaim.
- Counterclaims can be important, particularly in states that do not have no-fault divorces because they can shift the fault for the divorce to the plaintiff.
- Such issues as child custody and property division


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## Divorce Process

- *Discovery* - The process by which attorneys gather information about each other's clients related to the assets, liabilities, income, spending habits, and any other information that is believed to be relevant to the action.
- Although this information is usually financial in nature, it may include nonfinancial information.
- The forensic practitioner is generally involved in providing assistance to the attorney and client to help facilitate the discovery process.


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## Divorce Process

- Discovery begins with an attorney issuing a request for the production of documents.
- Practitioners can aid the attorney by suggesting the types of financial documents and information that might be useful in the discovery process.


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## Divorce Process

- If a party does not comply with the discovery request, the requesting attorney can either issue a subpoena or file a motion with the court requesting an order for the production of documents.
- If the requested material is not produced, the court may impose sanctions against the noncompliant individual.


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## Divorce Process

- Interrogatories may be served to the spouses.
- Interrogatories - Written questions developed by the attorney and completed by the spouse on the opposing side.
- These questions are usually required to obtain information on subjects such as employment history and income; assets, such as bank accounts, brokerage accounts, and cars; the existence of businesses that the responding spouse owns; and liabilities, such as credit cards and secured loans. The responses are made under oath.


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## Divorce Process

- Subpoenas of third parties can also be used to obtain documents and records, such as bank information, brokerage statements, and corporate minutes.
- Financial Affidavit - Spouses are required to complete a financial affidavit which is a document sworn under oath listing each spouse's known assets, liabilities, income, and expenses.


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## Divorce Process

- Another method used to obtain information is the deposition.
- Deposition - Each attorney questions or deposes, an individual who has information the attorney needs.
- This is done under oath and in the presence of a court reporter.
- An attorney can depose the other spouse or the spouse's family, friends, business associates, experts (including forensic practitioner who are working on the divorce).


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## Identification of Assets

- One of the first steps in the discovery process is to identify all the assets of the marital estate.
- There are many documents that are accumulated to support the parties representations of the marital estate.
- These documents can aid the forensic professional in helping look for undisclosed assets or income.


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## Identification of Assets

- Documents and resources for identifying assets:
  - Tax returns
  - Bank and brokerage statements
  - Credit card statements
  - Personal financial statements
  - Loan agreements
  - Insurance policies
  - Internet services
  - Online search firms


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## Identification of Assets

- Tax returns, which include income, estate, and other types of returns, provide information about reported taxable income and identification of income-producing assets.
- Bank and brokerage statements provide information about the spouse's acquisition of assets, incurrence of loans, and income and expenses.
- Credit card statements can provide information about assets and liabilities as well as marital lifestyle. They can be particularly important when the court is trying to determine the level of support necessary for spouses and children.


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## Identification of Assets

- Personal financial statements are often required when individuals borrow money. Reviewing them may lead to identification and discovery of unknown or additional assets, liabilities, income, expense, or other commitments not listed on a financial affidavit.
- They are often prepared to borrow money, refinance debt, or cover personal guarantees.
- Loan agreements are helpful in determining the existence and nature of debt owed by the parties. They can also be helpful in identifying assets that are used as security for loans as well as the representation of income of cash-flow of the borrower.


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## Identification of Assets

- Insurance policies can be helpful in identifying assets that have not been disclosed when the initial inventory was taken. These policies usually cover expensive items, such as jewelry, antiques, automobiles, or undisclosed properties.
- Internet services and searches can be used to identify assets and obtain other information, such as photographs of property. Some governmental entities, such as counties, provide appraisals of real and personal property located in their jurisdictions.
- Online state records may contain information on the ownership of corporations and other entities.


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## Tracing of Separate/Community/Marital Property

- Obtain a good understanding of the asset(s) to be traced.
- Create timelines relating to each asset/bank account.
- Create a "Key Documents" binder where you place important documents—refer to them on your timeline.
- Make a list of bank accounts/assets owned at various points in time.


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## Steps to Follow in a Tracing

- Create a detailed spreadsheet of the transactions during the time period in question. This could be very time consuming and can require a lot of data entry. Tracings can be very staff-intensive.
- Fancy computer programs are not necessary; Excel is powerful enough. Incorporation of macros into a template is helpful.


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## Services in High Net Worth Cases

- These are the cases you want to get!
- Analysis of assets and liabilities of an individual can be complex if they own many partnerships and corporations.
- Create flowcharts showing ownership and the flow of money.
- Create statements of assets and liabilities based upon your understanding of their assets and liabilities.


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## Valuation of Assets

- After the assets, liabilities, income, and losses of the marital or community estate have been identified, their value for purposes of division and distribution will be determined.


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## Valuation of Assets

- Important consideration - The date on which the assets and liabilities are to be valued.
- Generally, the assets and liabilities will be valued at the date determined under state law. But parties can agree/stipulate to another date if they so choose.
- Valuation dates vary among states. The forensic practitioner needs to be aware of what applies in the jurisdiction they are practicing and representing their client


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## Valuation of Assets

- Generally, the values will change between the required valuation date and the date on which an actual distribution occurs. Practitioner can assist in determining how any such difference is to be handled.
- For example, if a brokerage account is divided between the parties, the practitioner may request guidance on how the change in values between the date of valuation and the date of distribution is to be apportioned.
- This issue may occur with other assets or liabilities, including bank account and credit card balances.


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## Valuation of Assets

- If the practitioner is not familiar with local law regarding valuation dates and standards of value, they should obtain guidance early in the engagement on which date is applicable.
- The correct valuation date may depend on numerous factors, and the client's attorney is often in the best position to provide the date or dates that are to be used.


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## Valuation of Assets

- The standard of value depends on the state where the parties file for divorce, and different states specify different standards of value.
- Many times, state statutes may refer to value without specifying any particular standard of value. In these situations, case law may provide guidance.
- Therefore, understanding the law (both statutes and case law) in the jurisdiction of the divorce is important.


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## Standards of Value in Matrimonial

- Conclusion—Elements in each states' standard of value; fair market value, fair value and intrinsic value are applied and reported and may vary on the facts and circumstances.




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## Valuation Issues Specific to Matrimonial

- It is important to understand the standards/standards of practice in your area
- Understand the different standards of value
- Issues relating to different dates in matrimonial
- Understand the different valuation methods used and how they differ from an appraisal for other purposes
- Identify issues related to personal versus enterprise goodwill


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## Standard of Value in Matrimonial Assignments

- Some states have case law that says that spouses are economic “partners” with the same fiduciary duties.
- Some states allow a fair market value calculation; others focus on more of a “fair value.” Or a value in the hands of the present owner.
- In some states discounts for marketability may not be deducted unless the sale of the property is necessary. Potential income taxes are usually not deducted.
- In some states, discounts for non-controlling interests are not allowed.


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## Fair Value in the Context of Matrimonial

- The standards name comes from the context of fixing the value of a dissenting shareholder’s stock under a state’s business corporation act and under state statute.
- Fair value can mean a proportionate share of the marketable control value of the business interest without regard to discounts for lack of control or lack of marketability.
- Depending upon your state there may be exceptions to exclude personal goodwill, taxes, or a covenant not to compete which may or not be divisible.


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## Investment Value in Matrimonial

- Investment Value is a value to a specific investor
  - Based upon the individual investment requirements and expectations
  - Eliminates the hypothetical buyer and seller, using specific individuals instead
- The concept of investment value and intrinsic value overlap in the divorce arena in many jurisdictions.


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## Intrinsic Value in Matrimonial

- Value of an asset or a business to a specific owner or prospective owner
- Recognizes that the business owner going through a divorce will not be selling the business, and therefore, the owner will continue to receive the benefits of ownership into the future
- The value of the business may be worth more or less to the owner than if it were transferred into the hands of a hypothetical purchaser


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## Valuation of Assets

- Marital or Community Estate
  - Fair Market Value
  - Intrinsic (Fundamental) Value
  - Investment Value
  - Fair Value
- Professional Practices
  - Licenses
  - Degrees and Certifications
  - Goodwill
  - Covenant Not to Compete
  - Buy-Sell Agreements
- Other Assets
  - Retirement Assets
  - Stock Options
  - Personal Residence


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## Methods of Valuation

- Asset Approach
- Income Approaches—Discounted cash flows not used in some jurisdictions—capitalization of earnings allowed in most states.
- Market Approaches—Good approach if there is good data—some states don't allow as the only method of valuation.
- Hybrid Approaches—Excess Earnings-Rev Ruling 68-609. Used a lot since courts tend to understand the simple approach.
  - Goodwill + Net Assets = Practice Value


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## Excess Earnings Method

- Calculates goodwill using the following steps:
  - The net tangible assets of a business are valued at their current value.
  - A fair return is allowed on such net assets and is deducted from the earnings stream.
  - Next, reasonable owner's compensation is determined and subtracted from the earnings stream.
  - The excess of the practice earnings is deemed to be from goodwill.
  - The value of the goodwill is then determined by capitalizing this amount normally between 1 and 5 times.


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## Goodwill

- Enterprise vs. personal goodwill
  - Enterprise goodwill is attached to the medical practice and is not associated with the physician's unique abilities and characteristics.
  - Personal goodwill is attached to the individual and his or her unique abilities and characteristics.
  - Celebrity Goodwill—allowed in a few states (NJ and NY have reported cases). Based upon the premise that enhanced earnings capacity of a celebrity is marital property.


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## Analysis of Income for Alimony and Support

- In order to determine alimony and support, the income of each party must be determined.
- Analysis of tax returns, coupled with knowledge of assets and liabilities, can lead practitioners to suspect that income has been understated.
- Different types of alimony can be awarded.
- Insurance and other property can be used to secure payment of alimony.
- Child support payments are not deductible on tax returns because they are not alimony.
- Amount of child support is based on factors such as the number of children and standard of living.


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## Analysis of Income Available for Support/Maintenance—The W-2 Earner

- Look at the Whole Package—Ask for the Employment letter. Ask for previous work history.
- Salary
- Bonuses
- Stock Option Income
- Profit Sharing
- Retirement Plans
- Interests in partnerships, corporations, or investments
- Favorable Terms for Purchases of Assets
- Misc. Reimbursements/Allowances
- Manipulation of purchase transactions


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## What is Income?



- Know the various financial statements; be able to explain them to a court
- Different ways that entities recognize income
  - Sole proprietorship
  - C Corp
  - Partnership
  - LLC
  - Trust


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## Why Is It So Confusing?

- It is complicated!
- The individual does not receive all of the income that is allocated to him/her.
- The business requires that the owners reinvest their proceeds.
- Income and Expense declarations are not clear.
- Cash distributions are different than what the individual "earned."
- Owners receive a large amount of their cash from shareholder loans.


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## Finding an Individual's True Net Income From a Business—Initial Considerations

- Obtain an understanding of the company. **Get a preliminary estimate of fees—it can be a broad range, but the client needs to know that it is going to be expensive.**
- Investigate Owner's involvement in the business.
- Look at the financial statements with a reasonable eye. Perform vertical and horizontal analysis.
- Industry research


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## Net Worth Tests

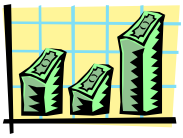
- It is simple—people can't spend what they don't have or earn.
- It is important to understand the family expenses. This can be done exactly or estimated.
- We need to understand the parties net worth at the beginning of the period and the end (usually a one or two year period).
- A good asset search is helpful.
- Other sources include loan applications, previous lawsuits, DMV records, financial statements, accountants workpapers, possible informants.


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## The Asset Method Formula

- Assets
- Liabilities
- = Net Worth
- Prior year's net worth
- = Net Worth Increase
- + Living Expenses
- = Income
- Funds from known sources
- = Funds from unknown sources




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## Expenditure Method

- It is very important to know the level of living expenses. Bank statements, cancelled checks, or check registers are needed. The data can be entered into QuickBooks.
- The formula is as follows:
  - Total Living Expenses
  - Known source of income
  - = Funds from unknown sources
- **Verify other possible sources of income!**


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## Other Assignment Areas

- Analysis of stock options—analysis of the characterization of stock options as separate or marital/community. Also, the treatment of stock options as income. Check your area for case law guidance.
- Family residence issues
- Analyzing Purchase Deals
- Analysis of Retirement Plans


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## Analysis of Marital Lifestyle/Spending of the Parties

- Using Excel with columns for expenses is sometimes acceptable. Most of the time, we enter all of the data into QuickBooks. Then reports can be printed. We give the QuickBooks to the client at the end of the case.
- Allocating expenses to the children is necessary in some states. Allocation percentages are not concrete. Use the USDA report. Check with other professionals in your area. Always be consistent with your allocation percentages.


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## Alimony and Support

- The amount and nature of income includible in the marital estate is governed by state law.
- Often, the starting point is the income shown on the income tax returns of the parties; however, the practitioner may need to make a normalization adjustment or other adjustment for items not to be considered according to state statute or case law.
- For example, in states in which income and expense is defined in terms of cash flow, noncash expenses, such as depreciation, would be added to the income shown on the tax return.


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## Alimony and Support

- An analysis of tax return items to determine their inclusion or exclusion from income may reveal inflated deductions. Of particular interest are deductions such as travel and entertainment and those listed as “other deductions.”
- An analysis of the tax return, and understanding of the assets and liabilities of the parties, can lead the practitioner to suspect that not all taxable income of the parties was reported or that deductions were intentionally overstated.


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## Alimony and Support

- If a practitioners suspects potential fraud or misrepresentations on behalf of their client, they practitioner may cease work and immediately notify the attorney engaged by the spouse for whom he or she is working.
- Intentionally underreporting large amounts of taxable income is a criminal offense, the attorney may insist that the practitioner be engaged by the attorney so that the practitioner's work is privileged.
- If one of the spouses has been unaware taxable income was understated, they could be relieved of marital tax liabilities by means of the innocent spouse rules discussed later.


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## Alimony and Support

- The amount of alimony/*spousal support* that will be paid depends, just as the determination of the amount of child support does, on state law.
- Courts considers many factors including the needs of the recipient (with consideration given to his or her health), the lifestyle enjoyed during the marriage, the income level of the recipient, and the length of the marriage and any other factor they deem reasonable.


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## Alimony and Support

Different types of alimony can be awarded.

- These include:
  - Permanent
  - Temporary
  - Rehabilitative
  - Reimbursement


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## Alimony and Support

- Permanent Alimony - Continues until the death of the payer or recipient or, in some states, until remarriage of the recipient. The amount is usually subject to change for factors such as the health and income-producing capacity of either of the former spouses.
- Temporary – Is just that.
- Rehabilitative Alimony - Awarded for a short (usually fixed) period and is meant to help a former spouse reenter the workforce or acquire skills necessary to support himself or herself.


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## Alimony and Support

- Reimbursement Alimony - Paid so that a spouse can compensate the other spouse for certain expenses incurred.
- Example - If during the marriage one spouse worked to enable the other spouse to attend medical school, the spouse who worked may be reimbursed for an amount that compensates the spouse for the time and energy expended to help prepare the medical school graduate for a career.


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## Alimony and Support

- In some instances, alimony can be considered non-modifiable if the amount is fixed and cannot be changed.
- Alimony can also be made non-modifiable as a means of equalizing the division of marital assets when a perceived inequity exists.


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## Child Support

- According to IRC Section 71(c)(1), the amount payable for the support of the payer's children is not includible in gross income of the recipient


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## Division of Property

- Court must adhere to laws and rules established by the state regarding marital property.
- Marital (or community) property is usually divided between parties, while non-marital property is not.
  - Nine states are community property states. In these, all assets acquired during marriage are considered marital assets.
  - In the other states, assets acquired during marriage are not necessarily divided equally.
- Property acquired prior to marriage or commingled during marriage may become marital property.
- Allocating more in assets to one party than the other is not uncommon.


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## Division of Property

- Generally, the practitioner should have some familiarity with the laws in the state where the divorce occurs.
- Nine states are community property states - In these states, all income and assets and liabilities acquired during the marriage are to be equally divided regardless of who produced the income or which spouse acquired the assets.


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## Division of Property

- Exceptions to this rule include property received by inheritance, gift, or owned prior to the marriage.
- These non-marital assets, although not divisible, can produce appreciation that is divisible if the efforts of one or both spouses contributed to the appreciation.


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## Division of Property

- In states that are not community property states, assets acquired during the marriage, although considered marital property and, thus, includible in the marital estate, are not necessarily divided equally.
- The court determines whether a division constitutes an equitable division of property.


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## Division of Property

- To determine an equitable division, the court makes a judgment based on a number of factors, such as the duration of the marriage, the relative contributions of each spouse to the marriage, the standard of living to which each spouse has become accustomed, and the existence of any prenuptial agreements.
- Because of the judgment involved, different courts in the same state can arrive at different divisions of marital assets.


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## Division of Property

- Often, the existence of a prenuptial agreement does not mean that assets will be divided by a court in accordance with the agreement.
- The court may treat agreement as it would any other contract and look closely at whether the party seeking to enforce the contract enticed the other party to sign the agreement under duress or without adequate representation.


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## Division of Property

- In addition to understanding property division issues, the practitioner may also consider the liquidity, tax, and risk aspects of various assets.
- When dividing assets, the cash-flow needs and consequences associated with individual assets may need to be considered. The practitioner can assist in determining the impact that the liquidity (or illiquidity) has on a party.
- A proposed property distribution (for example, certain real estate or a retirement plan) may be one that a party cannot afford because of the liquidity issues caused by negative cash flow, tax effects, or other costs.


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## Fraud in Matrimonial Engagements

- Sometimes individuals will intentionally engage in efforts to misstate or hide assets, liabilities, income, and expense in order to keep a greater amount of assets for themselves.
- This concealment is fraud and may likely meet the legal definition of criminal behavior in some states.
- Fraud can be discovered by the practitioner, attorney, spouse, or other family members and close friends.


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## Fraud in Matrimonial Engagements

- The amount of time that elapses between the divorce filing and issuance of the final decree of divorce provides opportunities to spouses who choose to engage in fraud to reduce the marital estate.
- Perpetrated to cover up extramarital affairs.
- Avoid negative publicity or involvement by the spouse in illegal activities, such as drug dealing or selling of counterfeit merchandise.


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## Fraud in Matrimonial Engagements

- Caution should be exercised if the income and expense shown on income tax returns is relied upon, particularly when the business is small and family-owned.
- Business owners can intentionally underreport income or deduct items on tax returns that were of a personal nature and not the ordinary and necessary business expenses allowed by IRC Section 162, Trade or Business Expenses.
- The forensic practitioner should exercise extra diligence on behalf when there are suspicions of misreporting income and expenses.


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## Fraud in Matrimonial Engagements

- If one spouse has misstated tax liability without the knowledge of the other spouse, the spouse who had no knowledge of the misstatement could be relieved of a portion of the marital tax liabilities by means of the innocent spouse rules.
- According to IRC Section 6015, Relief from Joint and Several Liability on Joint Return, five tests must be met before the taxpayer can be relieved of the understated tax liability


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## Scope Development

- Are you going to be an expert or consultant?
  - This can be very important with cases where there is unreported income or other criminal activity.
- Development of a workplan
  - Brainstorming of ideas with staff and attorneys
    - This will help managers to delegate work to staff. There tends to be a lot of data entry/staff level work in forensic cases.


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## Practice Management Issues (cont'd)

- Scope of Work
  - Clarify what you are and are not doing.
  - Have the attorney hire specialists if necessary.
  - Make sure they understand how you do your work.
  - Managing expectations—don't guarantee that you will find those hidden bank accounts or income.
  - Forensic cases are very difficult to estimate total fees—give ranges.


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## Retainer Letters

- Once Family Law forensic Professionals understand the nature of the engagement and agrees to work on the matter, they need to memorialize their understanding with the client in writing.
- A well drafted and comprehensive engagement letter protects the practitioner and outline the scope of the engagement and responsibilities of the parties.


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## Practice Management Issues

- Billing Issues
  - Issue engagement letters.
  - Discuss billing arrangements from the beginning.
  - Communicate frequently about progress billings, expectations, etc.


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## Practice Management Issues (cont'd)

- Frequent Deadlines
  - There are many hearings for different issues.
  - Understand deadline dates and status of the case.


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## Scope Development (cont'd)

- Assisting the attorney during discovery
  - Document-request lists, assistance with subpoenas, compiling questions for depositions or interrogatories.
  - The more involved we are, the more value we add to the case.


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## Managing Many Boxes of Information

- Quickly have your staff index the boxes. Some people use high-end software programs.
- Number each asset and liability and make copies of key documents by number. You can always filter out documents as you learn more about the case.
- Always identify bank account numbers, assets, related parties, etc. Have a list available for all staff members.


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## QUESTIONS??


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