

Post-Nuptial Agreement General Issues

1. Division of all property and debts (keep in mind the court may only divide marital property which is property acquired during the marriage and not separate property.) Separate property is property acquired prior to marriage or after separation and inheritance or gifts (not from spouse) acquired during marriage and maintained separately. By agreement parties may divide their property and debts as they choose.

- Real Estate – land and buildings, timeshares. If a mortgage, will it be refinanced if property not sold?
- Tangible Personal Property - household furnishings, tools, collections, cars, etc.
- Intangible Personal Property (checking and savings account, investment accounts, stocks, bonds, stock options, etc.)
- Businesses – sole proprietorships, partnerships, corporations, LLC's, etc.
- Retirement Accounts (Pensions (VRS, etc.), 401(k), 403(b), IRAs, etc.) Division permissible by special court order.
- Life Insurance –cash value. Will beneficiaries be maintained?
- Debts (mortgage, auto loans, credit cards, student debt, medical bills, etc.) Consider getting a recent copy of your credit report. You may and should get a free credit report from the three major credit reporting agencies annually from this website: <https://www.annualcreditreport.com/index.action>)

2. Spousal Support –is there need? Is there ability to pay? Type: periodic/permanent; fixed term; defined amount/defined term; rehabilitative. Vocational re-tooling (school, training, etc.), Will one or both parties waive and/or reserve right to reservation of the right to seek support?

3. Temporary Financial Issues: Until there is an agreement, who pays?

- Mortgage or rent and utility payments during separation.
- Real Estate and Personal Property taxes
- Car payments and auto insurance
- Health insurance and medications and bills not paid by insurance
- Life insurance, Disability insurance
- Credit card and other debt payments
- Other

4. Tax returns – joint or separate; if joint, how will refunds/taxes be divided?

5. Medical insurance (Health, dental, vision) -maintain on self and for spouse (until Final Order?)

6. Attorney's fees (drafting agreement, drafting & filing divorce papers) & court costs

7. Standard provisions – indemnification, no-fault divorce, etc.