

Equitable Distribution

Equitable distribution involves the dividing of marital assets as a result of the termination of a marriage. Equitable distribution looks at the financial situation that each spouse will be in after they separate and/or divorce

. There is a belief that each party will receive 50% of the marital assets, but this is a rebuttable presumption. Some of the factors that are evaluated when determining equitable distribution are: Age and Health

Income and Earning Power

Property of each spouse

Duration of Marriage

Probable future financial circumstance of each spouse

Value each spouse contributed to family

Responsibility for providing for children, tax, inheritance and pension consequences

Liquidity of property and assets

Wasteful dissipation of assets by either spouse or economic fault

Spousal Support or Maintenance Payments

Marital Property

Marital property is property acquired by either spouse individually or the couple together during the time of marriage. There are three exceptions: inheritance received by one party, gifts given to one spouse by a third party, and compensation for personal injury

received by one party. Non Marital Property

Separate or non-marital property is the property the each individual spouse brings into the marriage. However, in order for property to remain separate it should be kept in only one spouse's name and not commingled with other marital property. Once separate property has been mixed, it is presumed to be marital property. Businesses, professional licenses and practices, and earning potential are also considered "property" and are subject to equitable distribution. There is an important distinction between separate and marital property because this affects how property is divided. Upon divorce

, separate property remains the property of the person who owned it prior to the divorce

. Marital property, on the other hand, is divided between the spouses. In addition to the assets acquired during marriage, marital debt is also evaluated and equitably distributed upon

divorce

.If you have questions or need help with an equitable distribution legal matter, please call a lawyer at Tully Rinckey. The most popular City / Village / Town Courts our lawyers serve:

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