

# 4 Things You Didn't Know About Property and Retirement Plan Division During a Divorce

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**Divorce** can be a difficult time for all parties involved and one of the most challenging parts of a divorce is the division of **property** and **assets**. *Many couples can become frustrated when they get less than they feel entitled too and others can become worried about **retirement** when they must disperse their account with their spouse.*

When it comes to the division of retirement accounts and property, there is a lot to know when going through a divorce, *below are 4 things you might not have been aware of about the distribution of retirement accounts and property during a **Utah divorce**.*

## 1. Contributions to Retirement Plans Count as Marital Property Under Utah Law

Any contributions that you have made during your marriage to a retirement plan will be considered marital property under the divorce laws in Utah and is therefore subject to equitable distribution. Retirement and pension benefits that may fall under this category include:

- Employer-sponsored benefits
- 401K plans
- Any defined benefits plan
- Military retirement plans

*If both spouses contribute to plans, the court may have each spouse keep their plans.* Distribution can also include compensation for half of the benefit value in either cash or **assets**. Often the judge will allow the

spouses to come to their own agreement in the division of retirement benefits. If they fail to do so, ***the court will use a formula based on the number of years married, the age and health of each spouse and to determine the value to be distributed.***

## **2. Pension or Retirement Account Contributions Before Marriage May be Deemed Non-Marital Assets**

While most couples haven't contributed substantially to a [401K](#) or retirement plan until after their marriage, those who marry later or more than once may have invested and accrued a decent amount of savings for the retirement before they wed their current spouse. If this is the case, a judge may rule that the earlier contributions before marriage was considered nonmarital assets and therefore would not be subject to the equitable division of assets. ***While this is often the case, to add additional protection to pre-marriage retirement assets, it is advised to secure a prenuptial agreement for the most favorable outcome.***

## **3. Utah is an Equitable Property Division State**

***Equitable is not the same as splitting the [property](#) or assets in half.*** Being an equitable property division state, Utah courts decide what a fair and reasonable amount of assets and [debts](#) should be given to each spouse. ***Especially in long-term marriages, the court may consider fact-specific or individual needs of each of the spouses*** when coming up with their determination. Assets and debts that are often included in the final determination include:

- Household furniture
- Property and real estate
- Stocks, bonds, 401ks
- Pensions
- Retirement accounts
- Collectibles, antiques, or other valuable assets
- Mortgages
- Credit card debt
- Liabilities acquired during the marriage

## **4. You Will Most Likely be Able to Keep Property Acquired Before Your Marriage**

During a divorce, the property will be separated into sections of either marital or nonmarital assets. If you owned property before you were married and were responsible for its upkeep and maintenance, it would most likely be deemed non-marital assets and not subject to the court's equitable division. This can include many types of property including ***second homes, inheritance funds, jewelry, antiques, or furniture that was acquired before the marriage.*** Anything that was purchased after you were married, even if it was in only one spouse's name, is considered a marital asset and subject to division.

## **Salt Lake City, Utah Divorce Attorney Can Help**

Knowing what to expect in your divorce will not only make it easier to deal with but will help you to prepare for what is to come. Salt Lake City Divorce [Attorney David Pedrazas](#) knows the ins and outs of Utah divorce law and can [help you](#) prepare for your asset division and make sure that you get a [fair settlement](#). [Contact the Law Office of David Pedrazas](#) in Salt Lake City, Utah today to schedule your [risk-free 30-minute consultation](#).