



Uncovering Hidden Assets

Dig through documents to discover what a spouse is really worth

By **CHARLES E. STRICKLAND III**

The identification and division of property can often be the most contested matter in a divorce proceeding. As such, it is essential to determine the full extent of the assets that have been accumulated during a marriage. Attorneys and professionals hired to prepare an inventory of the marital assets usually have to start from scratch when listing the assets.

Occasionally, assets may be overlooked because one spouse has handled all of the financial affairs. In some instances, one spouse may feel that the other is hiding assets in an attempt to deprive them in the division of property. The following documents are often valuable in determining and locating all potential marital assets.

Personal Tax Returns

Personal income tax returns are a useful starting point in determining marital assets because they are used to report the income and/or losses from most assets. Tax returns are generally a reliable source of information because most taxpayers are wary of incurring fines and penalties for fraudulent reporting.

A review of the past several years' tax returns can reveal assets such as private investments not reported on brokerage statements or income from real estate. Tax returns also report the amount of any tax refunds received. In addition, personal tax returns should report the sale of invest-

ments and real property. If a tax return does report the sale of an asset, you should inquire as to where the proceeds of the sale were deposited when the sale was finalized.

When reviewing tax returns, you should analyze as many years as possible in order to discern inconsistencies in income and assets. Comparing reported income on tax returns to verifiable personal expenditures is a relatively simple way to determine if unreported income is sustaining a lifestyle clearly greater than that which reported income and assets could maintain.

Bank Statements

The activity reported on bank statements should be reviewed for both payments and deposits. Deposits should be reviewed to verify if earnings have been received consistently and if other deposits, such as tax refunds, proceeds from sale of assets, or expense reimbursements, have been received.

Tracing significant checks or wire transfers from checking, savings, and brokerage statements may reveal transactions that a spouse was previously unaware of, such as the purchase of personal assets, transfers to a new account, security deposits for a new apartment, or participation in new investments. Cancelled checks often provide evidence of the transfer of funds among different accounts.

Unidentified, material deposits and withdrawals must be examined and disclosed. You should begin your review at either the time of the filing of the action or the period in time in which the spouse feels the marriage was beginning to deteriorate, and continue your review through the date of the division of marital assets.

Loan Applications

Most loan applications require the bor-



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rower to list all of their assets and debt. Loan applications can be useful in identifying other assets because a borrower is likely to list all of their assets, such as sole bank accounts, investments, and personal

assets, to increase the likelihood of receiving the loan. A loan application could also be used to confirm that debt to a friend or family member did not exist at the time of the loan.

In addition, owners of privately held businesses tend to "puff-up" or increase the value of their businesses in order to impress the lending institution and increase the probability of obtaining a loan. Such applications may show valuations significantly higher than those which are claimed during divorce proceedings. The values listed on the loan application could also be used as a starting point in trying to determine the value of all of the marital assets.

Employment Agreements

In addition to stating the terms of an employee's compensation, employment agreements may also include other benefits due to an employee. The employment agreement should be reviewed to determine if an employee will receive future benefits or awards.

Some companies may provide their employees with deferred benefit plans that are held by the company until the employee re-

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tires. These benefit plans may not be listed on tax returns or bank statements. Employment agreements may also include bonus awards due to an employee after a term of service or provisions due to an employee for early terminations.

Earnings Statements

Earnings statements, or pay stubs, are useful in determining when earnings were received, if any earnings have been deferred, and when bonuses are typically distributed. Earnings statements should also list the account number where the funds were deposited for employees who receive direct deposit. Reviewing prior earnings statements can help determine if a salary increase is overdue or if there are any uncollected bonuses or commissions; these are common tactics that divorcing employees may use in an attempt to defer their income.

In addition, earnings statements can confirm if expense reimbursements are included with the earnings or if they are paid separately. If they are paid separate-

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ly, the expense reimbursements should be matched with deposits on the bank statements.

Conclusion

During a divorce, many individuals will do whatever they can to reserve what they believe is their own wealth, whether motivated by greed, emotional feelings, or fear of financial duress after the divorce. The most common methods of hiding assets include moving funds from a joint account to an individual account, transferring assets to a friend or relative or into a trust or offshore corporation, purchasing assets that are not required to be registered with the IRS, or conspiring with an employer to suppress bonuses, raises, or commissions until after

the division of property.

Hiding assets and income is certainly not a strategy that all divorcing spouses will employ; however, it is a strategy that is becoming increasingly prevalent. Divorce cases that often involve hidden assets include instances in which a spouse is self-employed or has a business ownership interest, or in which a spouse has multiple sources of income and a variety of income producing assets.

It is often a good idea to utilize a forensic accountant to assist in identifying and understanding the assets and income of parties going through a divorce. Uncovering hidden assets can be a complex and daunting task, but the discovery of all marital assets is vital to obtaining a settlement that is equitable to all parties involved. ■