



IN THIS

PUBLICATION:

- Confidentiality
- Joint Returns
- Property Tax Issues
- Inheritance Tax
- Common Law Marriage

Mission Statement:

The statutory mission of the Iowa Department of Revenue is to serve Iowans and support state government by collecting all taxes required by law, but no more.

Tax Implications of Divorce



Getting a divorce is a life-changing event. It is an emotional time but it is important to make sure your interests are protected. **This publication is intended as a high-level outline of potential issues for taxpayers to consider and discuss with their attorneys during the divorce process. There are potentially different considerations under federal law and other considerations not referenced in this document. This publication should not be relied upon as legal advice.**

Confidentiality

The Iowa Department of Revenue (IDR) is bound by confidentiality provisions that protect you and all other taxpayers from the disclosure of your tax information. If you did not file a joint filing married return, IDR cannot disclose any information relating to a joint return for a tax year ending before your divorce. This means IDR cannot disclose your former spouse's tax information to you, including what payments towards a liability your former spouse has made, how much income your former spouse currently makes, deductions, or any other confidential tax information.





Joint Returns

Joint and several liability. If you filed a joint return with your former spouse, the main thing you need to know is that **you are jointly and individually responsible for any tax, interest, and penalties due for a tax year ending before your divorce. This is the case even if your divorce decree states that your former spouse will be responsible for any amounts due on previously filed joint returns.** Your divorce decree only binds you and your former spouse -- it does not bind any other creditors, including the IRS and/or IDR.

If you and your former spouse do owe money on a previously filed joint return, here are some things to be aware of:

- **Mailings, Notifications and Reminders.** On joint returns, IDR's system automatically sends mail to the address of the first person listed on the return. IDR can mail correspondence to the secondary taxpayer as requested. We cannot send copies of correspondence or give out addresses for ex-spouses.
- **Offsets.** "Offsets" can occur when you are due money from a state source, but you also have an outstanding federal, state, or local government liability. Casino winnings, daycare reimbursements, and tax refunds are examples of state payments subject to offset. If you and your former spouse owe money on a return you filed jointly, these funds can be applied to that tax liability. This is the case even if you have made a payment plan and even if you have remarried.
- **Bankruptcy.** Bankruptcy does not automatically eliminate your tax debt as not all taxes are dischargeable debts. You should consult your bankruptcy attorney to determine what may actually be dischargeable.
- **Innocent Spouse Relief.** If you believe your former spouse is responsible for your tax debt, you may be eligible for Innocent Spouse Relief. Iowa follows the federal IRS determination of Innocent Spouse Relief. In order to be eligible for Innocent Spouse Relief, you and your spouse must have filed a joint return that understated the amount of tax owed. You must also be able to establish that when you signed the joint return you didn't know, and had no reason to know, that there was an understatement of tax, and that looking at the totality of the circumstances, it would be unfair to hold you responsible for the understatement of tax. If the IRS grants relief, provide IDR with a copy of your IRS Final Determination letter to request relief from your Iowa tax debt. For more details, see Iowa Admin. Code r. 701-38.15.

- **Business Tax Permits & Licenses.** If divorce causes changes in the ownership of your business, it could have an impact on any permits and licenses you have. In particular, sales/use tax permits are not transferable from one owner or ownership to another. You can cancel or change or tax permits at <https://www.idr.iowa.gov/ChangeForm/start.asp>.

Property Tax Issues Related to Divorce

If property ownership changes because of a divorce, **you may have to reapply for certain property tax credits.** These include but are not limited to:

- Homestead Tax Credit
- Disabled Veteran Homestead Tax Credit
- Business Property Tax Credit.

For more information on property tax credits, go to our website at <https://tax.iowa.gov/property-tax-credits-and-exemptions>. Your local assessor will also have information on property tax credits and exemptions.

Inheritance Tax and Divorce

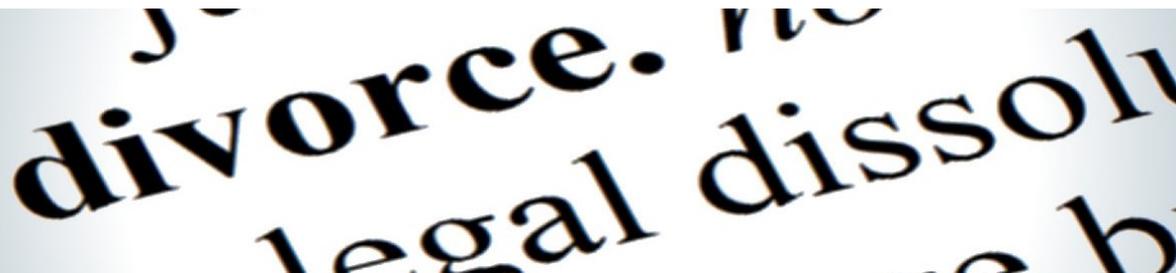
Ex-spouses are not exempt from the inheritance tax; a marriage must still be in effect at the time of death in order for a spouse to qualify for an inheritance tax exemption. A divorce could also potentially sever a step relationship, with stepchildren and step grandchildren. You should check with your attorney to see if tax consequences will change under your will.

Common Law Marriage and Divorce

Common law marriage is a legal marriage in Iowa and is treated the same as a ceremonial marriage, with the same rights and responsibilities. Establishing a common law marriage can be difficult as there is no public policy favoring common law marriages in Iowa, and claims of common-law marriage are closely scrutinized by Iowa's court system. **However, there is no "common law" divorce. In order to dissolve a common law marriage, the parties must file for a divorce with the court system, just like with a ceremonial marriage.**

More Information

- Contact your attorney.



Questions?

Email: idr@iowa.gov

Postal Mail:
Taxpayer Services
Iowa Department of Revenue
P.O. Box 10457
Des Moines, IA 50306-0457

Or call:
1-800-367-3388
515-281-3114

TDD - Deaf and hearing assistance: 515-242-5942
Monday - Friday 8 a.m. to 4:15 p.m.

Vision Statement

Iowa will be a state where it is easy to understand and comply with tax obligations.

<https://tax.iowa.gov>