

Dividing Assets In A Divorce In Equitable Distribution States

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While community property states assume that all marital property should be divided 50/50 in a divorce, the 41 equitable distribution states generally start out with no presumption at all. Each case is considered on its own merits. The only mandate is that the property division should be "equitable" or "just."

The equitable distribution states are all of the states EXCEPT: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin.

Alaska is normally an equitable distribution state, but you and your spouse can choose to create a community property estate if you want to. See your divorce lawyer if you have questions about that.

Since there is usually no presumption of a 50/50 split, how do the courts decide who gets how much in an equitable distribution state? They look at a variety of factors that can differ from state to state. Some states actually list the factors to be considered in their divorce statutes. Others simply say the property division should be "equitable" and leave it up to the judge to decide.

Some of the typical factors that may be considered are:

1. Each spouse's financial and non-financial contributions to the marriage
2. Length of the marriage
3. Financial condition of each spouse
4. Skills and education of each spouse, and their ability to earn a living
5. Age and health of each spouse
6. Any children involved, and who has custody
7. In some states, the conduct of the parties can be considered (i.e. abuse, extramarital affair)
8. Economic conduct of the parties (i.e. dissipation of marital assets)
9. Contribution of separate property to the marriage
10. Liquidity of the assets (how easily they can be sold or otherwise turned into cash)
11. The income tax effects of the property

Considering the number of factors and their potential complexity, you should work closely with your divorce lawyer to put forth the best arguments for why you should be awarded a larger share of the assets than your spouse.

Whether negotiating with your spouse or trying to convince a judge at trial, it's important that you know what is considered in your state, and how it applies to your divorce.

For more information:

[All 50 States](#)

[The Divorce Financial Survival Series](#)