Children of Divorce: Financial Planning Issues for Custodial Parents

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The purpose of this paper is to discuss the financial planning implications of child support awards made at time of divorce. A hypothetical case study approach is used to describe a typical divorce award, to compare a typical settlement with costs of raising children, and to project an alternative settlement scenario given the difference in award and costs. Factors affecting awards made to custodial parents and the need of the custodial parent for support are presented. Data from court records of divorce settlements in four Ohio counties are used to develop typical award patterns, and cost estimates developed by Edwards (1981) are used to project need. These projections show that current guidelines for child support result in awards that do not adequately meet costs past the third year.

KEY WORDS: divorce, child support, financial planning

Divorce has a profound effect on the financial well-being of individuals and families. Too often, however, the focus of financial planning during the divorce process is on the immediate rather than the long term implications of decisions. Financial planners can help couples make more long-range financial decisions before and during marital dissolution. To give appropriate advice, financial planners need to be knowledgeable of divorce settlements and the financial impact on the parties involved. The purpose of this paper is to describe a hypothetical divorce award and to project an alternative settlement scenario for custodial parents in light of the costs of raising children.

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The impact of divorce is particularly dramatic for the custodial parent of dependent children, since raising children requires the expenditure of money and time, with the accompanying opportunity costs. When these costs are shared by two parents in an intact family unit, economies of scale may reduce the burdens. When divorce divides that unit into two, however, costs increase as one or more parties are displaced from the home. Demands on time shift dramatically to the custodial parent, possibly increasing child care costs and/or interfering with employment opportunities. Family schedules become more complex when visitation between the noncustodial parent and children is involved, possibly increasing the noncustodial parent's costs as well.

Thus, total costs for supporting the family members go up, while income and assets may remain constant or decline. Divorce settlements usually address only some of these problems, leaving parents with a major challenge in planning for their own and their children's financial futures. Divorcing parties should be aware of their settlement options within the legal limits. In this paper, background information relating to factors affecting awards made to custodial parents and need for support based on the cost of raising a child is presented. A case study approach is then used to consider the implications of need versus award.

Awards Made to Custodial Parents

The divorce settlement, one determinant of financial well-being, contains a division of property and other assets, and may provide for future transfers. Many divorced parents who have custody of their children are awarded child support and other income or assets. Likelihood of a child support award has been related to a balance between the needs of the custodial parent and children and the ability and desire of the noncustodial parent to pay, with the ability of both parents to use the legal system as an intervening factor (Stafford, Jackson, & Seiling, 1989).

The award of child support itself does not guarantee the actual receipt of support. Some custodial parents receive none of the income awarded. Others receive payments only until problems arise with visitation, or the noncustodial parent's interest is lessened by remarriage or is weakened by distance in time or space.

Custodial parents are usually women. Only 61% of the 8.8 million women with children under 21 years of age and with no father present were awarded child support in 1985, and only 48% of those women received the full amount (U.S. Bureau of the Census, 1987). Another 26% received only partial payment and 26% received no payment at all. The pattern continued in 1987: only 49% of the $5 billion due in child support payments in fiscal year 1987 was paid (U.S. Department of Health and Human Services, 1987).

In response to the national problem of child support, Congress enacted the Child Support Enforcement Amendments of 1984, Public Law 98-378. As part of the amendments, Congress mandated that by October 1, 1987, all states must adopt guidelines for the determination of child support. The amendments increase the number of methods of obtaining payment of child support, as well as enforcement power and interstate cooperation for collection. Furthermore, implementation of award guidelines to reduce judicial discretion in setting the size of the awards was required of all states. One important result of the guidelines is elimination of the ability of either spouse to manipulate the legal system by hiring the best attorney. Use of an attorney was a significant indicator of award of child support prior to the implementation of the Ohio Child Support Guidelines, but that relationship did not hold after adoption of the guidelines (Stafford, Jackson, & Seiling, 1989).

Guidelines which include specific dollar amounts or proportions of spouses' income for awards are a concrete way to establish a compromise between the needs of the custodial parent and children and the ability and desire of the noncustodial parent to pay. The Ohio Child Support Guidelines are based upon an *income shares model* and attempt to balance the financial costs of raising the children between the custodial and noncustodial parents[1] (Child Support Guidelines, 1988). The *income shares model* matches the parents' combined gross income with a table which lists a basic amount of support for the number of children involved (Williams, 1985; Ellis, 1989). The noncustodial parent is required to pay an amount which is proportionate to his or her share of the combined income. In Ohio, the guidelines provide for obligors with incomes between $500 and $10,000 per month. Incomes outside that range are to be determined on a case by case basis.

Need for Support

The custodial parent's need for support varies with the number and ages of dependent children. Although the cost per child declines as the number of children increases, the total proportion of the parents' expenditures spent on their children increases. On average, families with one child spend about 30% of total expenditures on the child; families with two children spend between 40 and 45%, and families with three children spend nearly 50% of total expenditures on the children (Espenshade, 1984).

Two sets of estimates of costs of raising a child are commonly used. Espenshade (1984) uses marginal costs, while the USDA (Edwards, 1981) uses average expenditures. There is little variation with regard to distribution of expenditures for children at different ages; both sets of estimates include the increases in costs of raising a child with the child's age. Although the expenditure category proportions are quite different for the two approaches, the expenditure totals are very similar. It is the totals with which this paper is most concerned.

The USDA estimates of the cost of raising a child, developed by Edwards (1981), have been recognized as the standard for estimating expenditures for children for a decade. The estimates are annual updates of actual expenditures of two parent families at one point in time during the early 1960s (Edwards, 1981). These figures are average expenditures for a child of a given age or for the child's share of the family's expenditures on shared items, such as housing or transportation, and allocate the spending for the first 18 years into three equal age categories: 29% for children aged 0-5, 33% for children aged 6-11 and 38% for children ages 12-17 (Table 1 shows a more complete breakdown of expenditures by age and by category of expenditure). Using marginal expenditures, Espenshade finds a very similar allocation among age groups: 26% of expenses for children accrue between birth and 6 years, 36% between 6-11, and the remaining 38% between 12-17 years of age (Espenshade, 1984). Further, the economies of scale of having more than one child are found primarily from birth to 6 years, so he places more of the expense in the middle category.

Table 1
Updated Estimates of the Cost of Raising a Child

The Cost of Raising Urban Children in the Midwest: 1988 Annual Average; Moderate-Cost Level [1]

Age of Child	Total	Food at Home	Food Away	Clothing	Housing	Medical Care	Education	Transpor-tation	All Other
Under 1	$4,927	$640	$0	$155	$2,118	$365	$0	$904	$745
1	5,072	785	0	155	2,118	365	0	904	745
2-3	4,724	785	0	252	1,861	365	0	787	674
4-5	5,005	902	164	252	1,861	365	0	787	674
6	5,259	873	164	349	1,765	365	175	787	781
7-9	5,462	1,076	164	349	1,765	365	175	787	781
10-11	5,666	1,280	197	505	1,829	365	175	846	816
12	6,042	1,309	197	505	1,829	365	175	846	816
13-15	6,188	1,455	197	505	1,829	365	175	846	816
16-17	6,788	1,629	197	699	1,893	365	175	933	887
Total	100,596	20,392	2,494	6,830	33,372	6,570	2,100	14,928	13,910

Source: "Updated estimates of the cost of raising a child", (1989). Family Economics Review, 2(2).

[1]Annual cost of raising a child from birth to age 18, in husband-wife family with no more than 5 children. For more information on these and additional child cost estimates, see USDA Miscellaneous Publication No. 1411, USDA Estimates of the Cost of Raising a Child: A Guide to Their Use and Interpretation, by Carolyn S. Edwards, Family Economics Research Group, Agricultural Research Service, USDA.

The families in the USDA study had five or fewer children; estimates for children under 2 years of age and those aged 16 and 17 were based on families with three children. Estimates for those aged 2-15 were based on families with an average closer to four children. Total spending for children goes up as the number of children increases, but costs per child tend to decrease as family size increases.

According to Edwards (1981), major spending categories have not changed a great deal over the 25 years; however, some shifts have occurred. Mean family size has decreased from a mean of 3.68 in 1963 (U.S. Bureau of the Census, 1975) to 3.17 in 1988 (U.S. Bureau of the Census, 1989), and spending increased in child care, transportation, and food away from home categories. The child care costs are small for school age children and not a factor for older children. Food away from home increases for children as they age. More families contain two earners, and expenditures for transportation are higher for families in which the wife works (Espenshade, 1984). Espenshade estimates 25% of expenditures are for transportation rather than the 15% for the USDA figures. He also believes that a smaller proportion of expenditures should be assigned to housing (24% rather than the 34% the USDA estimates).

Other limitations of the USDA estimates relate to income of children and food spending patterns. Many more teens work part-time now, but the estimates assume that none is employed. Even part-time employment brings additional costs for transportation, clothes, and food away from home. Cost levels are based on spending on food according to the USDA food plans. The estimates assume that groups of families who are spending similar amounts on food are living at similar levels and that families spend at similar levels on all items of consumption. The cost level is held constant; therefore, no change in income or level of living as children grow up is recognized (Edwards, 1981). Although the estimates are broken out by region and by urban, rural nonfarm, and farm families, Edwards suggests that national estimates should be based on the figures for the North Central region. The urban estimates use the census guidelines for places of 2500 population or more.

Divorce Awards

Although the likelihood of an award of child support has increased, the value of payments in real dollars has declined (Permanent Commission on the Status of Women, 1979; McGraw, Sterin, & Davis, 1981-82; Stafford, Seiling, Jackson, and Reiboldt, 1989). The inclusion of cost of living adjustments in income awards is rare, and the typical child support award is a fixed amount for the time period of dependency of the child(ren). Often the father's ability to pay is the dominant or only factor considered. Some judges apply standard settlements in the great majority of their cases (Seiling, 1987), and they often do not revise their award amounts for many years regardless of inflation. Thus, it is not surprising to find that the proportion of fathers' incomes paid in child support decreases in both real and nominal terms, such as it did in Connecticut between 1965 and 1978 (Permanent Commission on the Status of Women, 1979).

In comparing divorce settlements in central Ohio for three points in time, Stafford, et al. (1989) found that fewer then 9% of women were awarded alimony. Nationally, 14% of women ever-divorced or currently separated women were awarded alimony (U.S. Department of Commerce, 1985). For women in the Ohio sample receiving alimony, the median monthly amount in constant 1987 dollars fell from $307 in 1973 to $245 in 1985; however, it rose to $325 in 1987 (Table 2). The median alimony was highest for those divorcing in 1987; however, the likelihood of being awarded child support was much higher: 85% in 1973, 84% in 1985, and 87% in 1987. The median weekly child support awarded per child dropped from a high of $51 in 1973 to $37 in 1985, and made a partial comeback to $45 in 1987. To make matters worse, no provisions were made for the effects of inflation, so awards made in any year tended to decrease in purchasing power (Stafford, et al., 1989).

Implications for Financial Planning

The financial questions that arise before and during the time of divorce are numerous and difficult to resolve for many couples. Most issues concern the division of income and various assets and liabilities between the spouses.

The majority of couples have few assets to divide. A relatively large group do have assets, however, and so must be aware of the implications of their decisions. For example, 42% of the couples in the 1985 Ohio sample were homeowners. Due to the long-lived impact of the decisions, help in planning may be particularly important for the party who did not initiate the divorce and has not anticipated it. The non-initiating party often does not plan ahead

Table 2
A Comparison of Divorce Awards in Ohio, 1973-1987

Award Component	Year 1973	1985	1987
Cash Settlement*			
Mean	$12,484	$32,392	$11,624
Median	$5,117	$7,021	$6,000
% awarded	12	10	19
N	109	97	100
Monthly Alimony*			
Mean	$559	$360	$924
Median	$307	$245	$325
% awarded	7	9	7
N	73	94	44
Weekly Child Support Per Child*			
Mean	$57	$42	$51
Median	$51	$37	$45
% awarded	85	83	86
N	500	457	261

Source: Stafford, Seiling, Jackson & Reiboldt, (1989). [Statistical summary of divorce and dissolution settlements in central Ohio]. Unpublished raw data.

*For cases that received an award.

All dollar amounts are in 1987 dollars.

(although this can be done with a pre-nuptial agreement), cannot manipulate income and assets, and is often disabled by shock. Further, there are few legal protections for the non-filing spouse. Although guidelines mandating given levels of child support may help establish awards, other aspects of the settlement may be ignored and the custodial parent left without adequate resources. In addition, adherence to the guidelines mandated by law may work against the custodial parent, unless acceptable rationale for deviation is presented. Guidelines make child support more likely; the rule for strict adherence, however, may close off other more advantageous settlement strategies.

Hypothetical Case Study

Using a case study approach, this paper addresses primarily those issues related to the support of children under age 18. The case presented here is based on divorce data collected in 1973, 1985, 1987, and 1988 from court records in one urban county and three rural counties in central Ohio. A random sample of 10% of urban and 50% of rural cases was drawn. Records provided names and addresses of husband and wife; names and ages of children; name(s) of attorney(s) for husband and/or wife; name of judge; dates of marriage, filing and decree; all documents filed in the case as motions including the separation agreement; and the final decree. All awards of income, assets, or debts were specified in the decree, but dollar values of assets and debts were provided in very few cases. Only in the 1987 and 1988 records was information on ages, incomes, education, occupation or employment status given.

In addition to divorce record data, child support guidelines and estimates of the costs of raising children are applied to one particular family. The family is a composite drawn from court record data for central Ohio (see Table 2), as are the income settlement possibilities described (see Figure 1). The family is comprised of husband Jack, wife Mary Jane, and two children, Brad, age 10, and Kim, age 7. Jack and Mary Jane were married 12 years before their divorce. Both Jack and Mary Jane have college degrees; Jack is an account executive, and Mary Jane an elementary school teacher.

Figure 1
Summary of income, assets, and liabilities of divorcing couple

	Before divorce		After divorce	
	Jack	Mary Jane	Jack	Mary Jane
Income	$40,000	$22,000	$30,635	$30,765
Assets				
Home	$75,000 jointly owned		$75,000 jointly owned	
CD's	$12,000 jointly owned		$ 6,000	$6,000
Cars	Car 1	Car 2	Car 1	Car 2
Retirement[1]	$37,024	$ 5,701	$23,638	$19,088
Liabilities				
Mortgage	$52,000 jointly owed		$26,000	$26,000
Car loan	$ 5,035 jointly owed			$ 5,035
Home improvement loan	$ 3,995 jointly owed		$ 3,995	

[1]Estimates for the value of the retirement plans were based on the following assumptions: (a) salaries increases at 4% per year; (b) contribution to retirement fund at 8% of annual income; (c) retirement fund growth at 7.5% per year. Mary Jane worked for 1 year and then was out of the workforce for the succeeding 7 years. For those years, Jack's retirement accrual was divided equally between the spouses. Mary Jane's portion will be set aside for her retirement and is not currently accessible.

The couple bought a home 8 years ago; the mortgage balance is $52,000, and the estimated market value is $75,000. Jack and Mary Jane have 4 years remaining on a home improvement loan with a balance of $3,995 and monthly payments of $137. They also own certificates of deposit valued at $12,000. Mary Jane has contributed to the State Teachers Retirement System for 3 years; Jack has a company pension plan. He is also covered by Social Security. Each owns an automobile; 2 years of payments remain on Mary Jane's car. The balance owed is $5,035 at 12% interest, with a monthly payment of $237. Figure 1 provides a summary of income, assets, and liabilities.

The settlement provides for Mary Jane to live in the house until the youngest child reaches age 18. Then the house will be sold and the proceeds equally divided. The household goods are to be divided according to an informal agreement between the spouses. No alimony is to be paid.

Mary Jane was awarded sole custody of the two children, and Jack will pay child support. The child support amount prescribed in the settlement is based on Ohio Child Support Guidelines adopted in October, 1987 (Supreme Court of Ohio, 1987). The guidelines provide child support amounts based on family gross annual income less amounts paid for health insurance. The gross annual income in this case study is $62,000 (Jack's income, $40,000, and Mary Jane's, $22,000). In computing the basis for child support, Jack's income is reduced by $600, the amount he pays for health insurance for the children. Thus, the income is $39,400 + $22,000, or $61,400; and the child support amount for this income is $13,652 annually. Jack's share, based on his proportion of total household income, is 64.2%, or $8,765. Jack is also ordered to provide health insurance for the children and to purchase a life insurance policy with the children as beneficiaries. The budget projections for each spouse are presented in Figure 3.

Discussion of Settlement Alternatives

The first question to be considered is adequacy of support. According to USDA estimates, the combined annual expenditure for two children in the age groups used in this case is $11,128 (Table 3). Ohio Child Support Guidelines assign Jack's share of support (his income as a proportion of total pre-divorce household income) to be 64.2%, or $7144 of the USDA estimated cost in the first year. The USDA estimates are based on a moderate expenditure level and on a single earner family. Therefore, these estimates are likely to be low for our case study couple, who are two college-educated working professionals. The projected settlement assigns him a child support payment of $8,765 annually. Thus, in the first year, the assigned payment exceeds his share of the USDA expenditure estimates by $1,621.

Table 3
Comparison of Expenditures on Children and Court Ordered Child Support

Years Payments Are To Be Made	USDA Cost Estimates[1]	7.4% Inflation Added[2]	Child Support Payments[3]	64.2% of Inflated Cost Estimates[4]	Difference Between Child Support & Inflated Costs
1988	$11,128	$11,128	$8,765	$7,144	+ $1,621
1989	11,128	11,951	8,765	7,673	+ 1,092
1990	11,504	14,486	8,765	9,300	+ 286
1991	11,854	14,486	8,765	9,300	- 535
1992	11,854	15,363	8,765	9,863	- 1,098
1993	12,230	16,755	8,765	10,757	- 1,992
1994	12,966	18,723	8,765	12,020	- 3,255
1995	12,966	19,682	8,765	12,636	- 3,871
1996	6,188	9,851	4,382	6,324	- 1,942
1997	6,778	11,292	4,382	7,249	- 2,867
1998	6,778	11,794	4,382	7,572	- 3,190

[1]"Updated Estimates of the Cost of Raising a Child," 1989, Family Economics Review, 2. (2), p. 24.

[2]The case study calls for 11 years to raise the children to age 18. The average inflation rate of 7.4% for the past 11 years, 1977-1987, is used to project into the next 11 year period. No inflation was added to the 1988 estimate.

[3]According to the case study specifications and Ohio Child Support Guidelines, Jack's share of child support payments is 64.2% of guideline amount.

[4]Jack's share of the inflated estimates of costs of raising the two children.

To gain a complete picture of the adequacy of child support, however, we must look beyond the first year. Although both the USDA and Espenshade estimates contain increases in costs associated with ages of children, there is no provision in the Ohio guidelines for increasing costs or for adjustments for inflation. One method for considering increases is the use of the annualized inflation rate. The rate for the past

11 years is calculated since support payments must be paid for 11 years in this case. For the period 1977-1987, the average annual inflation rate was 7.4%. Thus, if annual inflation continues to average 7.4% or more, Jack will pay less than his share of the estimated expenditures after only three years (Table 3). Over the 11 year period of child support payments with 7.4% annual inflation, Jack will underpay an average of $1,335 per year, assuming that he pays the child support as ordered. The total underpayment for the 11 years would be $15,751.

Monthly Income and Expenses

A second aspect of the divorce settlement is the effect on monthly cash flow. Assuming Jack's estimated income and expenses, he will have virtually no emergency fund and little flexibility in spending categories. He has no saving other than his contributions to a retirement fund begun at the time of divorce to compensate for distribution of his pension. In the assignment of debts, Mary Jane has the car loan ($237 monthly for 2 years) to pay off, and Jack has the home improvement loan ($137 monthly for 4 years). Her monthly payment is $100 more than his; however, the total amount owed is almost $900 less. Further, she is using the car for which she is making payments, and she and the children are living in the house for which the home improvement loan was borrowed. On the other hand, she is paying the full costs of financing and maintaining the home while living there, and Jack will share equally in the appreciation and equity accumulation at the time of sale.

Mary Jane's housing payment will remain constant because the mortgage on the home has a fixed rate. Mary Jane will have to maintain the home, however, a responsibility which may become increasingly expensive with time. On the other hand, it is likely that Jack's rent payments will increase. If he decides to buy a home his housing costs will undoubtedly rise.

Figure 2
Monthly Income/Expenses for First Year after Divorce

	Jack	Mary Jane	Children[1]
Monthly Income			
Wages	$2820	$1708	
Other (interest on CD)	$ 50	$ 50	
Child Support		$ 730	
Total	$2870	$2488	
Monthly Expenses			
Child Support	$ 730		
Housing	$ 800	$ 940	$294
Mortgage payments		$ 680	
Rent payments	$ 570		
Utilities	$ 150	$ 230	
Home maintenance		$ 30	
Food (at home and away)	$ 250	$ 400	$224
Transportation	$ 200	$ 397	$131
Car payment		$ 237	
Gas, repairs, insurance	$ 200	$ 160	
Clothing	$ 120	$ 200	$ 58
Personal Care	$ 50	$ 40	
Health (insurance for Mary Jane)		$ 60	
Health (insurance for Jack/children)	$ 90		$ 61
Recreation	$ 100	$ 50	
Education (includes school expenses)		$ 50	$ 29
Education (activities/ children)	$ 70		
Home improvement loan		$ 137	
Other			$130
Expenditure total	$2547	$2137	$927
Savings		$ 271	
Retirement	$ 300		
Emergency fund	$ 23	$ 80	
Total payments	$2870	$2488	

[1]Portion of Mary Jane's expenses for children, based on USDA estimates of cost of raising a child.

Adjustments in Jack's budget may be necessary. Possible areas include food away from home, clothing, and recreation. Jack's housing needs include space to accommodate the children on weekends; thus, his costs may be higher than for a single person without children. Costs related to his car and clothing are high priorities because of his job responsibilities as an account executive. Mary Jane's home and family responsibilities are greater, leaving her with higher required expenditures in the categories of food, clothing, and shelter. Her total savings contribution is lower, but more accessible. However, her only long-term savings program is money being set aside by her employer in teacher's retirement and a portion of Jack's retirement accrued at the time of divorce.

Jack and Mary Jane can expect to increase their incomes over the next 11 years. Their anticipated increases will be needed for certain increases in expenses for the children, both because of higher expenditures for older children and because of inflation. One can argue that the 7.4% average inflation for the past 11 years is a high estimate for the next 11 years. However, even with 5% inflation, it is clear from the figures on Table 3 that Jack's seemingly generous payments will not keep pace with needed increases in expenditures for raising the children to age 18.

Provision for support of the children in case of Jack's death include Social Security survivor's benefits. These benefits would be based upon his contributions and would be divided among the beneficiaries up to the family maximum ceiling. The benefits coverage for Mary Jane is State Teacher's Retirement of Ohio, which is one of the few systems in the U.S. that is not a part of Social Security. However, it provides benefits similar to those of Social Security for survivors of participants. In addition, Jack could be required to establish the children as irrevocable beneficiaries of his life insurance policy for the time period that he must pay support. This could be required of Mary Jane as well so that the children would not be without some financial support in the event of death of a parent.

Alternative Settlement Based on Asset Division

An alternative to the income award for child support may be considered for the following reasons: the erratic nature of Jack's income, the uncertainty of his continued payments for the full 11 years, the increasing gap between needed expenditures for the children and awarded child support payments, and Jack's cash flow problem for at least the short term. This proposal would require the parties to set aside assets for the rearing and educating of their children. There are complex legal issues related to the question of support awards versus property awards (Krauskopf, 1989). The discussion below considers only the simple economic issue of the value of alternate awards to the recipients, ignoring income tax considerations.

The objective is to divide assets in such a way as to equal the present value of future income payments. Jack's total child support obligation is $8,765 for 8 years and $4,382 for the remaining 3 years (Table 3). The present value of the child support payments (Figure 3), based on a zero inflation rate because payments will not change and a 12% interest rate for a high risk investment, is $47,790.

Figure 3
Present Value of Child Support Payments[1]

Payment: years 1-8 = $8,765 for the two children
years 9-11 = $4,382 for the remaining child
Inflation rate = 0 : payments will not change

Interest rate = 12% : This interest rate is higher than the rate on a safe investment in order to discount for the risk of not receiving the full amount of the award. Nationally only about one quarter of custodial mothers with child support awards receive the full amount.
Net Present Value = $47,790

Interest rate = 8% : This interest rate assumes an average rate of return for a more conservative investment.
Net Present Value = $56,468

[1]Present value of an annuity.

The assets shared by the divorcing spouses include the family home, which has a current appraised value of $75,000 and a remaining mortgage of $52,000; certificates of deposit which have a current value of $12,000; and their retirement funds (Figure 1). An alternative settlement based on asset division provides for Jack's deeding the home and signing his half of the certificates of deposit to Mary Jane and establishing a $10,000 savings account in each of the children's names in addition to Jack's retirement with Mary Jane. The purpose of the savings accounts would be to meet costs related to school, extracurricular activities and clothes.

In the terms of this settlement, Jack would not be required to make payments to Mary Jane for support of the children until they reach age 18. At that time he could voluntarily share in the support of the children for college expenses. Most courts do not require support from the non-custodial parents beyond age 18, and their attorneys often advise against committing to it in the settlement. On the other hand, voluntary support for the children for education or other purposes, particularly eight or more years after the divorce would not be very likely.

Jack's half of the equity in the family home is worth $11,500. This amount plus Jack's certificates of deposits totals $17,500. With the $20,000 in savings accounts he would still be short $10,290 of the present value of the child support payments. Although this scenario leaves Mary Jane without the full present value of the expected income stream, it does provide her with more assurance of a certain amount of money to use for raising the children.

Jack would leave the marriage with no assets other than his retirement fund, and he would be $20,000 in debt. However, he would have no continuing financial obligation to the children other than money he would choose to spend on them for gifts and expenses related to visitation. His attachment to the children could wane more easily as a result of the termination of his financial commitment. Furthermore, Mary Jane could use all of the assets quickly, leaving no support for the children as they get older.

Many judges are reluctant to deviate this far from the child support guidelines, which mandate an income type of support. It is difficult to predict the future either in terms of reliability of payment of support or prudent use of support payments for the well-being of the dependent children. If one hopes to succeed with such an alternative, a strong case must be made for setting aside assets in lieu of income as it benefits the children and provides no hardship on either parent.

Discussion

The payment of alimony (a tax deduction for the payer) versus child support is a complex question. In most instances this is moot because of the state mandated guidelines for child support and the tax requirement that the alimony can not be in any way specified as support for the children. The payor may be quite willing to consider paying in a tax deductible form, but the receiver may not be willing to receive payments upon which tax must be paid.[2] However, consideration should be given to the assignment of tax exemption in the divorce agreement.

For most couples, the full financial ramifications of divorce are not realized until sometime after the decree is final and the payments must be made. At that time, they may become aware that financial planning should have begun before the decisions were finalized. The emotional atmosphere of divorce decision making can obscure the long-term realities of supporting the same people in separate households. Regardless of whether divorce or death of a spouse is anticipated, it behooves marriage partners to be knowledgeable about their financial matters, including the costs of maintaining a household, income, debts, and other financial commitments and assets.

End Notes

1

SHARING MODEL IS USED IN EACH STATE WHICH HAS ADOPTED THE GUIDELINES. IN A COST SHARING MODEL, THE PORTION OF CHILD SUPPORT CONTRIBUTED BY EACH PARENT MAY BE BASED ON A RATIO USING GROSS INCOME, NET INCOME, OR NET DISPOSABLE INCOME (WILLIAMS, 1985)

2 VOGEL AND ROCHE (1987) PROVIDE A DETAILED DISCUSSION OF THE TAX IMPLICATIONS OF THE SETTLEMENT.

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