

Healy, Fiske & Richmond
189 Cambridge Street, Cambridge, MA 02141
(617) 354-7133

A Basic Checklist for a Separation (i.e. Divorce) Agreement

(“What do I want?” is often the key question)

The Children

- legal custody: who makes major decisions, such as health, religion, education, moral development
- our parenting plan: where do they live, when does the other parent have them; vacations, holidays, etc.
- removal from Massachusetts, or moving within the state
- emergency decisions
- temporary incompetence of one parent
- relationship with other relatives

Alimony and Child Support (the Child Support Guidelines)

- amount and timing
- tax treatment
- inflation
- reductions
 - emancipation
 - remarriage and "cohabitation"
- other adjustments
 - voluntary changes versus involuntary reversals
- duration
 - child support ends when emancipated, usually
 - when does alimony end? (cannot be affected by a child)
 - leave the question open?
 - waiver of all future alimony?

College and Other Education

- summer camp, extracurricular activities, other costs
- private school
- graduate school
- weddings, egad

Medical Insurance and Expenses

- insurance for the children
- insurance for the non-employee spouse
- uninsured medical and dental expenses - braces, therapy and other major costs

Life Insurance

- duration, amount, beneficiaries, proof of insurance; relationship to support obligation

Income Tax Returns

- the pending refund or liabilities
- how to file for this year?
- if joint, how to divide liabilities or refunds
 - line 56 ("this is your total tax") is the key
- * liabilities for past years

Property Division

- equitable distribution under G.L. c. 208, section 34 relationship to alimony

the house

- use and possession
- ownership
 - buy out for cash or exchange for release of other assets, such as a pension or business equity versus debt
 - liability for the mortgage remains after transfer of ownership between spouses
- tax consequences of transfer between spouses
- timing, timing, timing for sale or transfer
 - when the children are emancipated
 - some other defined time

other real estate (vacation house, rental units, time shares, etc.)

intangible personal property

- pensions, IRAs and other retirement plans
- business interests
- other intangibles: bank accounts, securities, stock options, royalties, receivables, intellectual property, tax loss carry forwards, frequent flier miles, etc.
- inheritances
- tangible personal property:
 - what art, dishes, furniture, etc and other items do I want? Do I care about their market value, if any?
 - are pets property?

Debts and Credit Cards

- the mortgage on the house, any equity loan or credit line, any other mortgage on any property
- liability for joint mortgage debt remains after transfer of jointly owned property between spouses
- college or other student loans
- individual debts
- how to eliminate all joint credit cards

Standard Provisions

- separate wills; waiver of future claims
- personal freedom to live his or her own life
- mediation of future disputes
- completeness of this agreement
- status of the agreement
 - merged into the judgment (more flexible)
 - survive as an independent contract (more rigid)