

THE DIVORCE MEDIATOR

CENTER FOR DIVORCE MEDIATION & ALTERNATIVE DISPUTE RESOLUTION, INC.

THE TROLLEY BARN • 10 WALL STREET • NORWALK, CONNECTICUT 06850 • (203) 854-9394

NEW TAX LAW EFFECTS DIVORCE

The new tax law signed into law by President Clinton in August will affect divorces in several ways. A significant change impacting many couples is the elimination of the \$125,000 exemption from capital gains on the sale of the primary residence for persons over age 55 and its replacement with a provision allowing a \$250,000 exemption for single individuals and a \$500,000 exemption for couples. These exemptions will be allowed on every sale and will not be limited to one transaction as the old provision. It is not clear yet whether both parties will need to be living in the marital home immediately prior to its sale in order to take the exemptions or whether there will be a provision that allows both members of the divorced couple to use the exemption even if only one party is living in the home. The decision of when to sell the marital home, pre or post-divorce, will potentially be critical because the financial impact will be large. Couples may want to postpone (continued page 2)

COURT ADOPTS NEW RULES

The Judges of the Superior Court have issued new rules for divorce cases which will be effective October 1, 1997. These rules impact divorce actions from the very beginning of the divorce with certain automatic orders going into effect when the divorce complaint is served. These orders will include limitations on the transfer of assets, incurring debts, removing minor children from Connecticut, terminating health and life insurance and changing housing and parenting and housing arrangements by the parties. Also, upon the request of one party to the divorce, the other party must disclose information which includes tax returns, W-2's, 1099's and K-1's for the last three years, pay stubs for the last year, statements of accounts for the last two years, copies of retirement plans, any written appraisal, and a summary of health and life insurance policies. At the beginning of each case, the court will track each case and assign each case for disposition. This means that the duration of each case will be established at the beginning of each case instead of being allowed to "drag on" for an indeterminate duration.

Many of the rules will be very helpful for mediation. The automatic orders are matters which the parties with whom we work agree to in our Mediation Agreement. The court orders will codify aspects of the Mediation Agreement we currently use, making provisions easier to accept, enforce, and less likely to be breached. Many people in divorces are still reluctant to disclose information. If they know that the court will automatically order the disclosure, the individuals will view the request for disclosure as standard practice and be less likely to become defensive upon being requested to disclose because they perceive the request as (continued page 2)

August 1997

Dear Colleagues:

The CENTER FOR DIVORCE MEDIATION & ALTERNATIVE DISPUTE RESOLUTION, INC. is pleased to send you this sixth issue of THE DIVORCE MEDIATOR.

The CENTER FOR DIVORCE MEDIATION & ALTERNATIVE DISPUTE RESOLUTION, INC. has developed this newsletter to share information and ideas related to Divorce Mediation. We want to share what we know as well as invite your questions, thoughts and comments. This exchange of ideas will allow us to continue to grow and learn from each other and better serve couples who have made the difficult decision to end their marriage.

Wally Marcus and Mary Marcus

TO MEDIATE OR NOT?

PREDICTORS OF MEDIATION SUCCESS

POSITIVE SIGNS IN COUPLES

- ◆ Desire for amicable post-divorce relationship.
- ◆ Willingness to make own decisions.
- ◆ Desire for fairness.
- ◆ Willingness to give and take.
- ◆ Ability to regulate intense emotions
- ◆ Children's well-being is more important than financial results of divorce.

NEGATIVE SIGNS IN COUPLES

- ◆ Lack of trust that other person will live up to the agreement.
- ◆ Desire for revenge.
- ◆ Spousal or child abuse.
- ◆ Substance abuse.
- ◆ Only goal is to save money.
- ◆ Little concern about impact of divorce on children.

NEW TAX LAW EFFECTS DIVORCE

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the granting of their divorce until the house is sold if the new tax law insists on both parties living in the home to utilize the \$500,000 exemption. If the new tax law allows each party to use \$250,000 even if one party is no longer living in the home, couples will want to consider retaining ownership in the property until it is sold to utilize the \$500,000 exemptions rather than changing ownership in their asset division whenever the divorce is finalized.

Another change impacting divorcing couples is the educational expense credit and life-time learning deduction. As couples decide how to provide for their children's educational expenses and how to allocate tax deductions for the children, they will need to consider

consulting their accountants to determine whether it would be advantageous for the college age child of a high income couple to no longer be considered a dependent and therefore to take advantage of the educational expense credit.

COURT ADOPTS NEW RULES

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indicative of a lack of trust on their spouse's part. Finally, with a time schedule set at the beginning of the case, either spouse will find it more difficult to "stall" the mediation. We look forward to working with the new rules. If you are interested in hearing more about the new rules, plan to attend the November 20 meeting of the Connecticut Council for Divorce Mediation where Walter Marcus will chair a panel discussion concerning the new rules.

THE DIVORCE MEDIATORS

Walter Marcus is an Attorney who has practiced Family Law for 25 years. He is a Practitioner Member of the Academy of Family Mediators, former President of the Connecticut Council for Divorce Mediation, former Chair of the Connecticut Bar Association Divorce Mediation Committee and member of the Executive Committee of the Family Law Section of the Connecticut Bar Association.

Mary G. Marcus, Ph.D. is a Clinical Psychologist who has had a private practice of individual, couples and family therapy for 17 years. Dr. Marcus is a Practitioner Member of the Academy of Family Mediators, a member of the American Psychological Association and the Connecticut Psychological Association, and is Chief of the Section of Psychology at Norwalk Hospital.

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FREE ONE-HALF HOUR CONSULTATION