



## LAW104

### Family Law Services Handbook: The Role of the Financial Expert - 20 hours

#### Objectives

Up to 50 percent of forensic financial services are performed in family law (divorce) engagements directly or in association with family law business valuations. This book is a response to the need for a treatise that blends accounting, legal, and forensic disciplines. We believe that this Family Law Services Handbook will supplement and expand the body of knowledge from the earlier Litigation Services Handbook.

Contributing authors are financial experts and attorneys, selected based on their knowledge, writing skill, and reputation in the family law accounting community. Law and local custom varies across the country. The reader should become familiar with statutes, cases, and custom in his or her locale.

#### Course Outline

##### **Chapter 1 – Introduction**

After completing Chapter 1, you should comprehend the following:

1. Development of Property Law.
2. U.S. Property Systems.
3. Role of Fault in Divorce.
4. Support.
5. Property Valuation.
6. Property Division.
7. Income Tax.
8. Marital Fraud.

##### **Chapter 2 – Divorce Assignment and the Financial Expert**

After completing Chapter 2, you should comprehend the following:

1. Initial Contact.
2. Engagement Terms and Conditions.
3. Case Management.
4. List of Cases.
5. Sample Engagement Letter.

### **Chapter 3 – Planning and Coordinating Discovery**

After completing Chapter 3, you should comprehend the following:

1. Introduction – Developing a Roadmap.
2. Forms of Discovery.
3. Financial Experts.
4. Expert Discovery.
5. Evaluation of Adverse Expert.

### **Chapter 4 – Child and Spousal Support**

After completing Chapter 4, you should comprehend the following:

1. Child Support Factors.
2. Child Support Guidelines.
3. College and Other Extraneous Expenses.
4. Uniform Interstate Family Support Act.
5. Full Faith and Credit for Child Support Orders Act.
6. Introduction to Spousal Support (Alimony).
7. Spousal Support Factors.
8. Types of Alimony.
9. Income Available For Support.
10. Imputation of Income – Ability to Earn.
11. Imputation of Income – Assets.
12. “Double Dipping”.

### **Chapter 5 – Community Property of Equitable Distribution**

After completing Chapter 5, you should comprehend the following:

1. Definition of Property.

2. Characterization of Property.
3. Division of Community or Marital Property.
4. Transmutation.
5. Pre-Marital Agreements.
6. Tracing and Apportionment.

## **Chapter 6 – Tracing Bank and Investment Accounts**

After completing Chapter 6, you should comprehend the following:

1. Introduction — Circumstances and Objectives of Tracing.
2. What Constitutes Separate Property and Community Property?
3. The Community Property Presumption and the Burden on Separate Property.
4. Intent and Fiduciary Duty.
5. The Tracing Menu Choices in California.
6. Putting on Tracing Evidence at Trial.

## **Chapter 7 – Real Property**

After completing Chapter 7, you should comprehend the following:

1. Real Property in Divorce.
2. Personal Residence.
3. Real Estate Investments.
4. Apportionment of Separate Property Interests.
5. Allocation of Income & Deductions During Pendente Lite Period.

## **Chapter 8 – Retirement and Pension Plans in Divorce**

After completing Chapter 8, you should comprehend the following:

1. Definitions.
2. Defined-Benefit (DB) Plans.
3. Defined Contribution (DC) Plans.
4. Hybrid Plans.
5. Other Retirement Accounts: Individual Retirement Accounts.
6. Annuities in Divorce.
7. Keogh (Or Hr-10) Plans.

## **Chapter 9 – QDROS**

After completing Chapter 9, you should comprehend the following:

1. Retirement Plan Basics.
2. Common QDRO Issues and Problems.

## **Chapter 10 – Equity Based Compensation: Stock Options**

After completing Chapter 10, you should comprehend the following:

1. Fundamental Issues that need to be addressed.
2. What are Stock Options?
3. Option Valuation Overview.
4. A Black-Scholes Valuation Exercise.
5. Options as Marital Property.
6. Taxation of Options.
7. Distribution of Options.

## **Chapter 11 – Separate Business Interests**

After completing Chapter 11, you should comprehend the following:

1. Investment of Community Funds.
2. Personal Efforts During Marriage.
3. Reasonable Compensation Method in California -Van Camp Apportionment of Community and Separate Property Interests.
4. Post Separation Change In Value.
5. Selection of Method - Pereira or Van Camp.
6. Equitable Apportionment.

## **Chapter 12 – Professional Standards**

After completing Chapter 12, you should comprehend the following:

1. The Early Years.
2. Other Valuation Standards.
3. Application of Standards to Valuations for Family Law.
4. Detail of the Consulting Standard.
5. AICPA General Professional Standards.
6. Statement Of Standards For Valuation Services No. 1.

7. The Developmental Standards.
8. The Reporting Standards.
9. Reporting Exemption for Certain Controversy Proceedings.
10. Appendices and Interpretation 1-01 to SSVS1.
11. Accreditation of Valuation Experts.
12. The Future.

### **Chapter 13 – Premise and Standards of Value**

After completing Chapter 13, you should comprehend the following:

1. Premise of Value.
2. Standard of Value.

### **Chapter 14 – Determining Enterprise Value**

After completing Chapter 14, you should comprehend the following:

1. Determining the Subject Company Equity Value.
2. Valuation Approaches and Methods.
3. Qualitative and Quantitative Analysis.
4. Normalizing the Benefit Stream.
5. Developing the Discount Rate Using the Build-Up Method.
6. Developing the Discount Rate Using the Modified Capital Asset Pricing Model.
7. Difference between the Capitalization and Discount Rate.
8. Long-Term, Sustainable (Perpetual) Growth Rate.
9. Reconciling the Results.
10. Non-Operating Assets and Liabilities.

### **Chapter 15 – Enterprise, Personal, Business & Celebrity Goodwill**

After completing Chapter 15, you should comprehend the following:

1. Definitions of Enterprise and Personal Goodwill.
2. Difference between Goodwill and Other Types of Intangible Assets.
3. Why the Need to Differentiate
4. Differing Standards of Value And Their Effect on The Goodwill Issue.
5. Qualitative Differences between Personal and Enterprise Goodwill.
6. Quantitative Analysis – Allocating Between Personal and Enterprise Goodwill.
7. Celebrity Goodwill.

## **Chapter 16 – Owner Agreements’ Impact on Business Value**

After completing Chapter 16, you should comprehend the following:

1. Legal Entities.
2. Customary Terms to Agreements.
3. Premises & Standards of Value.
4. Controlling and Non-Controlling Equity Interests.
5. Impact of Agreement Terms on Value and Examples.

## **Chapter 17 – Premiums and Discounts**

After completing Chapter 17, you should comprehend the following:

1. Entity-Level and Shareholder-Level Valuation Adjustments.
2. Control and Discount For Lack of Control or Minority Interest Discount.
3. Elements of Control.
4. Market Evidence for Control and Acquisition Premiums.
5. Marketability and Liquidity.
6. Discount For Lack Of Marketability.

## **Chapter 18 – Dividing the Marital Estate**

After completing Chapter 18, you should comprehend the following:

1. Important Dates.
2. The Marital Balance Sheet and Proposed Property Division Schedules.
3. Property Disposition Options - Settlement vs. at Trial.
4. Other Specific Issues and Considerations.
5. Conclusion.
6. List of Cases.

## **Chapter 19 – Preparing for Trial**

After completing Chapter 19, you should comprehend the following:

1. Expert Depositions.
2. Pretrial Motions.
3. Voir Dire and Methodology.
4. Preparing Your Expert for Testifying

## **Chapter 20 – Court or Neutral Expert**

After completing Chapter 20, you should comprehend the following:

1. Introduction: The Role of the Neutral, Joint, or Court Expert.
2. Considerations Before You Accept the Engagement.
3. Considerations While Serving As the Court's Expert.
4. Considerations When Delivering Your Findings.
5. Practical Tips.
6. Language and Content of Court Orders.

## **Chapter 21 – Mediation and Dispute Resolution**

After completing Chapter 21, you should comprehend the following:

1. Forms of Dispute: Resolution and Mediation.
2. Fundamental Mediation Blocks.
3. Programs and Providers.
4. Preparation and Participation.

## **Chapter 22 – Collaborative Law**

After completing Chapter 22, you should comprehend the following:

1. The Collaborative Process – Isn't This Just Like Mediation?
2. The Collaborative Professionals – Building a Professional Team.
3. The Financial Professional.
4. The Collaborative Contract.
5. Disclosure in the Collaborative Process.

## **Chapter 23 – Private Judging**

After completing Chapter 23, you should comprehend the following:

1. What is A Private Judge?
2. What Factors Should Be Considered in The Decision to Go "Private"?
3. What Does A Private Judge Offer?
4. How The Process is Different from the Public Courts.
5. Ethical Considerations.
6. Statutory Authority.

7. Preparation and Participation.

## **Chapter 24 – Income Tax: General Rules**

After completing Chapter 24, you should comprehend the following:

1. Child Support.
2. Filing Status.
3. Dependency Exemption.
4. Miscellaneous Issues.

## **Chapter 25 – Tax Consequences of Property Division: IRC §1041**

After completing Chapter 25, you should comprehend the following:

1. Section 1041 of the Internal Revenue Code.
2. Transfers of Property between Spouses or Former Spouses Incident to a Divorce.
3. Tax Basis of Assets Transferred Under Section 1041.
4. Conflicts with Section 1041.
5. Transfers of Stock Options and Deferred Compensation in Divorce.
6. Stock Redemptions in Divorce.
7. Interest Paid And Received On Deferred Equitable Or Community Distribution Payments.
8. Preventing Unintended Outcomes.

## **Chapter 26 – Tax Issues of Child and Spousal Support**

After completing Chapter 26, you should comprehend the following:

1. Support: General Discussion.
2. Definition of Alimony.
3. Definition of Child Support.
4. Key State and U.S. Tax Court Cases Addressing Unallocated Alimony and Child Support).
5. Alimony Recapture.
6. Nunc Pro Tunc.
7. Payments to Third Parties.
8. Temporary Support Issues.
9. Conflict between Family and Tax Law.
10. Support Arrearages.



11. What Agreements Must Say To Qualify As Alimony.
12. Non- Taxable and Non- Includable Alimony and Strategies.
13. Payments after Death.
14. Alimony and Expense Issues of a Jointly Owned Home.
15. Child Contingency Issues and Traps.
16. Substitute Payments.
17. Reviewing Divorce Agreements.

## **Chapter 27 – Marital Fraud**

After completing Chapter 27, you should comprehend the following:

1. What's Love Got To Do With It?
2. The Value in Fraud.
3. Data Gathering.
4. Business Entity and Marital Fraud.
5. Common Frauds and How to Identify Them.
6. Divorce Planning Strategies to Affect Business Values and Income.

## **Chapter 28 – Searching Public Information**

After completing Chapter 28, you should comprehend the following:

1. Privacy Laws and Assets Searches – Introduction.
2. Asset Searches.
3. Hidden Assets.
4. Databases.
5. Search Engines, Meta-Search Engines, and Directories.
6. Alternatives in Searching.
7. Privacy Laws

## **Chapter 29 – Bankruptcy and Insolvency in Divorce**

After completing Chapter 29, you should comprehend the following:

1. Overview of Chapter 7 Bankruptcy.
2. Overview of Chapter 13 Bankruptcy.
3. Protecting Domestic Support Obligations in Divorce.
4. Protecting Property Settlements in Divorce
5. Automatic Stay and Divorce Exceptions.
6. Priority of Obligations.

7. Effect of Bankruptcy Filing On Divorce Decree.
8. Certain Obligations.
9. Dismissal.
10. Revocation of Discharge.
11. List of Cases.