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.
3. Role of Fault in Divorce.
4. Support.
5. Property Valuation.
6. Property Division.
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.
4. Expert Discovery.
5. Evaluation of Adverse Expert.

Chapter 4 – Child and Spousal Support

After completing Chapter 4, you should comprehend the following:

3. College and Other Extraneous Expenses.
6. Introduction to Spousal Support (Alimony).
7. Spousal Support Factors.
8. Types of Alimony.
10. Imputation of Income – Ability to Earn.
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.
4. Hybrid Plans.
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.

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.
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.
4. Post Separation Change In Value.
5. Selection of Method - Pereira or Van Camp.

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.
5. AICPA General Professional Standards.
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.

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
5. Qualitative Differences 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.
5. Marketability and Liquidity.

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.

Chapter 19 – Preparing for Trial

After completing Chapter 19, you should comprehend the following:

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.

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.
Chapter 24 - Income Tax: General Rules

After completing Chapter 24, you should comprehend the following:

2. Filing Status.
3. Dependency Exemption.

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.
5. Alimony Recapture.
7. Payments to Third Parties.
8. Temporary Support Issues.
10. Support Arrearages.
11. What Agreements Must Say To Qualify As Alimony.
13. Payments after Death.
15. Child Contingency Issues and Traps.
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.

**Chapter 28 - Searching Public Information**

After completing Chapter 28, you should comprehend the following:

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