

Building Credit After Divorce
InCharge Debt Solutions
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Table of Contents

[What You Need To Know!](#)

[The Effect of Divorce on Your “Credit Capacity”](#)

[The Effect of Divorce on Your “Credit Capital”](#)

[The Effect of Divorce on Your “Credit Character”](#)

[What You Can Do!](#)

[Summary](#)

Building Credit After Divorce

Continuing on special case topics, we focus in this book on how divorce affects your credit and how you can rebuild your credit after divorce.

What You Need To Know!

When people marry they look forward to many years of emotional togetherness. Most married couples blend their financial lives, as well. When couples divorce, the emotional togetherness is broken. But the financial ties are often not as easily broken. In fact, the financial impacts of divorce can continue for many years.

If you are among those who may be facing divorce or who have recently gone through a divorce, you should be aware that divorce could have extremely adverse effects on your credit. Fortunately, there are some things you can do to avoid or minimize those consequences.

We will use the 5 C's of credit to organize our discussion of divorce and your credit in this chapter. However, we will focus only on capacity, capital, and character. The other two of the 5 C's—conditions and collateral—are not affected by divorce.

The Effect of Divorce on Your “Credit Capacity”

Capacity refers to having sufficient income to afford the payments that would be required on a new loan or credit card account. Basically, lenders want to know if you can repay your debts. Judging your capacity includes comparing your income to your living expenses and the amount of debt you already have outstanding. Divorce affects both income and living expenses. It will also affect your ability to repay the debts for which you are responsible. Thus, divorce affects your credit capacity.

A. INCOME AND LIVING EXPENSES

Divorce will affect your income. Your personal income might go up if you take a job or try to earn more money than you earn from the job you already have. But total household income is likely to decline because there is one fewer worker in the home. You will no longer have access to your partner’s income in the same way as before. If you are receiving alimony or child support, these sources must be considered in your favor by lenders when deciding to grant you credit. However, if those payments are not being received on a regular basis, lenders can consider that fact when they judge your credit worthiness.

Your day-to-day living expenses will also change after divorce. Whether they go up or down depends on which partner remains living in the marital home, child custody arrangements and whether alimony or child support must be paid or received. What is most likely is that the combined living expenses for both people will rise. That is because where there was one household there are now two.

B. YOUR CURRENT DEBT

Your level of debt after divorce will depend primarily on whose name or names were on the credit accounts you and your spouse had while married. There are three types of credit accounts: joint, individual, and authorized-user. Here are the key points you need to know about each type:

- Joint accounts. In a joint account, you and your ex-spouse BOTH are considered fully liable for the debt. Thus, lenders consider the entire debt to be your debt. This is true even if your ex-spouse was made responsible for the debt under your divorce decree. The impact of divorce decrees on debt is discussed below.
- Individual accounts. An individual account is exactly as it sounds.

The named individual is solely responsible for the account. Thus, the lender cannot hold you responsible for your ex-spouse's individual accounts. Nor can the lender hold your ex-spouse responsible for your individual accounts.

- Authorized-user accounts. With an authorized-user account one party is the account holder and is responsible for the debt. However, the authorized user can use the account, usually with a credit card, without needing permission of the owner each time a transaction occurs. If you are an authorized-user on your ex-spouse's account, you will generally not be held responsible for the debt by the lender. As discussed below, the court might still hold you responsible under your divorce decree.

C. THE IMPACT OF DIVORCE DECREES ON DEBTS OWED

You should understand that the features of credit accounts are part of the contract between you and your ex-spouse and any credit grantors. Divorce decrees do not change these contracts. The divorce decree is not binding on the lender's contract with you and/or your ex-spouse.

In many divorce decrees, the court will make one of the parties responsible for a debt of the other or for their joint debts. Assume, for example, that a husband took out an individual loan to help pay for some educational expenses of the wife while she was in school. By contract, the debt is the husband's responsibility. However, in a divorce decree, the court might order the wife to repay the loan since she received the benefits of the education. Such orders, however, are not binding on the lender.

What this means is that should the wife fail to repay the money that the court ordered in the divorce decree, the husband will be held liable by the lender as stated under the original credit contract. The husband's only recourse would be to take the wife back to court to force her to pay him for amounts he paid on the loan. This can be a very difficult task. In the meantime, if the husband does not repay "his" legally obligated debt, the lender will pursue the usual collection procedures.

In community property states (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, Wisconsin, and Puerto Rico), both spouses are considered co-responsible for any and all debts taken on while married, regardless of who is listed as the owner of the account. Thus, in community property states, you and your spouse are considered co-owners of all three types of accounts-- individual credit accounts and authorized-user accounts and joint accounts. This means

that if creditors cannot get repaid from one spouse, they will pursue the other person.

Warning: Sometimes divorce agreements stipulate that joint accounts may be maintained. This means that as long as your ex-spouse remains on the account, YOU will be liable for his or her future debts. If possible, try to avoid signing any a divorce agreement that requires you to maintain a joint account with your ex-spouse. Listen to your attorney's advice on these matters.

If your name must stay on a credit account, you will be legally liable for any new debts your ex-spouse runs up. It does not matter if your divorce agreement states that the account in question is solely your ex-spouse's responsibility. You are still legally liable to the lender; and if the ex-spouse should fail to pay, you will have to pay and then take action against the ex-spouse. Plus, if your ex-spouse is late in making payments, it will adversely affect your credit status, even if the problem resulted solely from your ex-spouse's actions. Now you should understand why it is so important to close all joint credit accounts.

If your ex-spouse is ordered to pay off a joint credit card debt, it might be a good idea to continue to pay at least the minimum payment to protect your own credit.

Credit card accounts are open-ended and, thus, can remain open for decades even if you never have or no longer use the card. Accounts are not closed if you cut up the cards. The lender must be formally notified of your request.

Here's what to do:

1. Obtain the customer-service telephone number for the lender from your most recent monthly statement or your credit report.
2. Contact the lender to request the address to use when sending a cancellation request. This will not be same address that is used to send your monthly payment.
3. Send a written request to close the account and request that the creditor send a confirmation that the account is closed.
4. After 90 days obtain a copy of your credit reports from each of the three major national credit bureaus to ensure that the account is shown as closed.

Note, that you cannot "close" an account on which you currently owe a balance. However, you can ask the lender to no longer honor the card.

The Effect of Divorce on Your “Credit Capital”

Capital refers to your overall level of wealth. A lender wants to know that you have sufficient financial assets if they are needed to repay the debt. Basically, they want to know what you own.

Some assets are owned individually. They are owned solely in your name. An example is a checking account that only you can use. Most people own cars individually.

Married couples often own many assets jointly. These can include their homes as well as their checking and savings accounts. In community property states, virtually all assets are treated by the courts as if it were jointly owned.

A. FORMS OF JOINT OWNERSHIP

- Joint tenancy with right of survivorship (also called joint tenancy) is the most common form of joint ownership, especially for husbands and wives. In this case, each person owns the whole of the asset and can dispose of it without the approval of the other(s). When an owner dies, his or her share is divided equally among the other owners. An advantage of this form of ownership while married is the ease of access for each owner. This advantage becomes a disadvantage after a divorce because one person can withdraw all of the money in the joint account without the other's knowledge.
- Tenancy in common is a form of joint ownership in which two or more parties own the asset, but each owns a separate share. In most states, the ownership shares are presumed to be equal unless otherwise specified. One owner cannot sell the entire asset but potentially sell his or her share. When one owner dies his or her share in the asset is distributed according to the terms of a will (or, if no will exists, according to state law) instead of automatically going to the other co-owner(s).
- Tenancy by the entirety, which exists in about 30 states, is restricted to property held between a husband and a wife. Under this arrangement, no one co-owner can sell or dispose of his or her portion of an asset without the permission of the other. This type of account provides the tightest control over checking or savings because both signatures are required for checks or withdrawal slips. This restriction effectively prevents withdrawals by one owner without the knowledge of the other.

B. MARITAL VERSUS NON-MARITAL PROPERTY

One big question that arises in divorce relates to the rights a non-owner spouse has in the individually owned property of the other spouse. Individually owned property is generally divided into marital property and non-marital property.

One form of non-marital property is property owned by the spouse before the marriage. For example, one spouse may have owned a vehicle when the marriage took place. This would be non-marital property. To change that status, the other spouse's name would have to be put on the title to the vehicle. The second major type of nonmarital property is the gifts and inheritances received individually by one of the spouses during the marriage even if the other spouse gave the gift. A spouse has no ownership rights in the non-marital property owned by the other. Thus, non-marital property can serve as credit "capital" for the ex-spouse who owns it. For example, if one spouse received a vehicle as a gift from his or her parent, that vehicle would serve as an asset for the receiving spouse.

Marital property consists of property acquired by the couple during the marriage even if it is owned individually by one spouse. An example might be the furniture in their home. Even if the husband purchased the furniture out of funds from his own checking account or by using his own individual credit card, the property is considered to be marital property. In community property states, almost all of the money and property acquired during a marriage is legally considered the joint property of both spouses and, thus, is marital property.

It is the marital property that divorcing spouses often fight about in a divorce. The division of marital property typically is outlined in the divorce decree issued by the court. As with debts, the divorce decree is binding on the ex-spouses but not necessarily binding on a bank, credit union, or vehicle-financing company where an account is held. For example, a divorce decree might state that a jointly owned savings account be awarded to one spouse. To accomplish this, the formal ownership documents must be changed with the bank. Similarly, if one spouse is awarded ownership of the couple's home, the deed must be changed to reflect this ruling.

The Effect of Divorce on Your "Credit Character"

Your credit character refers to your credit reputation as contained in your credit report. Justifiably or not, your credit reputation is tied to that of your spouse. All of your joint credit experience while married is part of your credit report. Your spouse may have had considerable

individual credit in his or her name. If that experience was positive, it will no longer be of any help in your newly divorced credit experience. If you were a spouse who did not have credit accounts in your own name (or jointly), it could mean that you have no credit history at all! Your first step should be to request copies of your individual credit reports from all three national credit reporting agencies. If the reports indicate no past credit usage in your name, you can use the information in this book to begin to build your own credit history.

What You Can Do!

Action Module 14: Building Credit After Divorce

Building and maintaining good credit after divorce can be challenging because income is usually lower and the costs and disruptions of divorce often add to both spouses' overall debt load. But it is not impossible. The key to an excellent credit status is to take the right actions in each of the three areas most likely to be affected by divorce: capacity, capital and character.

A. MAINTAINING YOUR "CREDIT CAPACITY" AFTER DIVORCE

There are a number of steps you can take to make sure that lenders rate your credit "capacity" as highly as possible after divorce:

- Keep track of every dollar you earn and spend for a month or two after your divorce. Then develop an income and expense statement for each month. This will let you visualize your new income and spending patterns now that you are divorced. If you are not yet divorced, try to make estimates based on what you expect your income and expenses to be.
- Develop a budget and stick to it as best as you can. In your budget, set aside savings for an emergency fund that should grow over time to at least two or three times your monthly expenses. This fund will help you weather or survive unexpected expenses.
- If you have a balance owed on a joint credit account and cannot pay it off before or soon after the divorce, write the creditor. Ask that the account be officially "closed." Also ask that the balance owed be transferred into an individual account of the spouse who has agreed to be responsible (or was required to by the divorce)

Account	Type of Account	Spouse Responsible in Divorce Decree	Balance	Monthly Payment	Action to Take
Example: Togs for Tots Credit Card	Joint	Me	\$1,000	Varies	Keep as joint account but pay \$150 per month to payoff one year and then close account

B. MAINTAINING YOUR “CREDIT CAPITAL” AFTER DIVORCE

There are a number of steps you can take to make sure that lenders rate you as highly as possible for “capital” after divorce:

- Develop a list of all your assets--monetary, tangible and. Then identify how those assets are owned and their current fair market values.
- Make certain that all of your non-marital property is properly listed in your name.
- Review your divorce decree and have the ownership legally changed

C. MAINTAINING YOUR “CREDIT CHARACTER” AFTER DIVORCE

After divorce your credit character as measured by your credit bureaus files will still be tied to your ex-spouse in two important ways. First, all your past credit behaviors will remain as part of your personal credit history. Secondly, all future credit behaviors in any joint accounts will continue to affect both your credit histories. You cannot do anything about the past. But you can ensure that your future credit information is based solely on your own credit behavior. The actions you should take will differ depending on your current credit status:

- **If You Currently Have Good Credit.** If you and your ex-spouse (or soon-to-be ex-spouse) have good credit, you should close all joint accounts. Ask creditors to transfer the balances to the appropriate individual accounts, as the two of you decided.
- **If You Currently Have No Credit.** You may have no credit history at all if all accounts were solely in your ex-spouses name or if you were only an authorized user on the accounts, Having no credit history could make it extremely difficult to obtain credit at a time when you are financially vulnerable and may need access to credit. You should contact each of the three big credit bureaus and request that they begin a new file solely in your name.
- **If You Have Poor Credit.** Sadly, you may have bad credit through

no fault of your own. You may be able to challenge entries in your credit history that really should have been only in your ex-spouse's history. Chapters 5, 6, 9 and 10 of Credit Booster provide information and suggested actions to take to address a poor credit history and improve your credit scores.

If your ex-spouse creates new bad debt in a joint account, contact your divorce attorney to see if you have any legal recourse. If your spouse runs up huge debts in a joint account and creditors come after you, one recourse could be bankruptcy. Listen to the advice of your attorney on these matters.

If a divorce is pending and your spouse has bad credit, contact your divorce attorney for advice.

If either spouse declares bankruptcy, it will not wipe out or eliminate alimony, maintenance, or child support payments owed to you (or by you). If you fear that your former spouse is going to file for bankruptcy, you need to contact your divorce attorney immediately to learn how to protect your credit and your finances.

Summary

- Any negative information from joint accounts affects the credit history of both spouses.
- If you are an authorized-user on your spouse's account, you may have no credit history at all. Request copies of your individual credit report to find out.
- In community property states, you and your spouse are considered co-owners of all debts, regardless of whose name is on the account.
- In case of divorce, close all joint accounts.
- You are still liable for your spouse's debt in joint accounts, regardless of what the divorce decree says. If your spouse fails to pay a debt as ordered in a divorce decree, you will have to pay the debt to protect your credit history. You should then contact your attorney to take action against your ex-spouse to force payment to you.
- If you fear that your former spouse is going to file for bankruptcy, contact your divorce attorney immediately to protect your credit and finances.

In this section we have focused on the Special Cases of building credit when you don't have any as a special credit case and how to build your "credit" capacity in the face of divorce.