

Keep your cool in a divorce to avoid tax headaches

By **ARDEN DALE**
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Christina Rowe took her ex-husband's share in the house instead of alimony after he spent a month in jail for skipping child support. Rowe figures that, over time, the move saved her about \$20,000 in taxes.

Tax tips aren't thrown around a lot during divorces, when emotional grenades are more likely to be tossed. But estranged spouses can save a lot by working together calmly on alimony, the sale of the house, income tax filing status and timing of the divorce.

"Smart people say 'I hate you, but I hate the Internal Revenue Service more,'" said Diana L. Mercer, an attorney and divorce mediator at Peace Talks Mediation Services in Playa del Ray, Calif., and co-author of the book "Your Divorce Advisor." "That's how some are able to save. They see through the shame and blame."

Every divorce is different, so ignore anything smacking of blanket tax advice. It's important to consult a good adviser, perhaps a lawyer or certified public accountant, for the best approach.

In the case of Rowe, author of the book "Seven Secrets to a Successful Divorce — What Every Woman Needs To Know," the trade-off between alimony and the house worked out.

She would have had to pay tax on alimony because it is considered taxable income, but she didn't owe any on the share of the house because property



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KEY POINT

■ Timing in divorce — as in everything — is key. A couple who marries toward the end of the year is considered married the whole year for tax purposes. On the other hand, a couple who gets divorced near the end of the year is 'divorced' for tax purposes for that whole year, even if they were married for 364 days of it. So a pair may want to put off the divorce until the new year if the numbers look better that way.

can be transferred tax-free in a divorce settlement. What saved taxes in her circumstances might not apply to others, however, and Rowe advises checking with an accountant or attorney before considering a similar transaction.

Judith E. Siegel-Baum, a partner in the New York office of law firm Wolf-Block LLP, has this advice:

"Demand that your attorney and accountant thoroughly explain the tax ramifications of any property transfers pursuant to divorce before signing a settlement agreement. Once a contract is signed, the deed is done."

Timing the sale of a house intelligently during a divorce can yield savings on the capital gains tax. A

couple can exclude up to \$500,000 of capital gains if married and filing jointly and both have lived in the house for a required length of time. A single person can exclude \$250,000.

So it may make sense in some cases to sell the house before the divorce.

But remember, if two people decide to co-own it after the divorce and sign a written separation agreement, the one who moves out can still get the \$250,000 exclusion as long as the one who stays still qualifies, according to Dan Caine, president of Family Law Software, which makes computer programs to calculate taxes.