

Delta Equitable Distribution Definitions and Concepts

Date of Separation: See **Step 4 - Spousal Support and Alimony** for this definition.

Marital Estate: The **Marital Estate** is a theoretical bucket into which all of the assets and liabilities/debts of the marriage are thrown. The size or contents of the estate is measured from the date of the marriage to the **Date of Separation**, however there are exceptions. The value of each asset and liability is usually measured on the **Date of Separation** but there are exceptions as well. During the divorce process, the court assumes control over the **Marital Estate** and has the power to protect and distribute the **Marital Estate** as it sees fit.

Marital Asset: Examples of a **Marital Asset** of the **Marital Estate** include vehicles, furniture, houses and all other assets purchased or received by either party during the marriage. A **Marital Asset** also includes, pensions, retirement savings plans, bank accounts, CD's and rights to payment such as a lawsuit claim. Thus, it does not matter which party purchased the property or in who's name the property is registered to be classified as **Marital Property**. Property owned by either party prior to the marriage is not included in the **Marital Estate**. However, increases in value of **Non-Marital Property** are included as a **Marital Asset**. Thus, assets can have non-marital and marital portions.

Non-Marital Asset: Assets owned by a party prior to the marriage and/or after the date of separation.

Marital Liability: Debts incurred during the marriage by one or both of the parties. This includes credit cards, loans, mortgages, car loans, tax liabilities and all other financial obligations.

Non-Marital Liability: This is debt incurred prior to the marriage and debt incurred after the **Date of Separation**. Many times, the court must determine what is marital and non-marital debt.

Date of Valuation: This is usually the **Date of Separation**. However, if there is a trial on Equitable Distribution and there is a long period of time between the **Date of Separation** and the trial date, the valuation date will be the date of the trial.

Equitable Distribution Factors: The court will consider the following factors when determining who gets what:

- (1) The length of the marriage.
- (2) Any prior marriage of either party.
- (3) The age, health, station, amount and sources of income, vocational skills, employability, estate, liabilities and needs of each of the parties.
- (4) The contribution by one party to the education, training or increased earning power of the other party.
- (5) The opportunity of each party for future acquisitions of capital assets and income.
- (6) The sources of income of both parties, including, but not limited to, medical, retirement, insurance or other benefits.
- (7) The contribution or dissipation of each party in the acquisition, preservation, depreciation or appreciation of the marital property, including the contribution of a party as homemaker.
- (8) The value of the property set apart to each party.
- (9) The standard of living of the parties established during the marriage.
- (10) The economic circumstances of each party at the time the division of property is to become effective.
 - (10.1) The Federal, State and local tax ramifications associated with each asset to be divided, distributed or assigned, which ramifications need not be immediate and certain.
 - (10.2) The expense of sale, transfer or liquidation associated with a particular asset, which expense need not be immediate and certain.
- (11) Whether the party will be serving as the custodian of any dependent minor children.

Alimony: Alimony is considered part of Equitable Distribution and is awarded if it would be unfair not to award additional financial help to a party. See **Step 4 – Spousal Support and Alimony for details on Alimony**.

Attorneys Fees and Costs: These can be awarded by the court and are considered to be part of **Equitable Distribution**.

Trial: As with all issues covered by the 5-Step evaluation process in Family Matters, issues that are not resolved or agreed to by the parties can be settled in court.