



# The Pitfalls of Keeping the House

Divorce is often a difficult and emotional process, as it usually involves major life changes. The process also consists of making a series of meaningful financial decisions including who will get ownership of which marital assets.

One of the most common questions is “Who gets the house?” Often, the home is sought after due to the comfort it provides, its proximity to friends or family and the desire to keep children in their current schools. Though maintaining the ownership of the family home may be the desired result, there are potential financial burdens that should be considered before making this decision, including:

- **Mortgage payments and property taxes**

Depending on the financial agreement, it is possible that the ultimate owner of the home would be responsible for payment of a portion or even up to the entire mortgage and real estate expenditures. If these payments are made by the non-owner, it could constitute alimony and be includable in the owner’s income, which is taxable. It is important to mention that late payments by either party on a joint mortgage can substantially effect both spouses’ credit.

- **Maintenance and utility costs**

These costs, on the other hand, are typically paid by the owner of the home. Although they may not be laid out when deciding who will get ownership of the house, it is helpful to consider and budget for any future expenses as they could reduce the overall benefit of owning the home.

- **Capital gains tax**

Down the road, if the house is sold for a greater value than that for which it was bought, a capital gains tax will be due on the appreciation. Fortunately, there is currently a \$250,000 exclusion for a single owner, which could lessen or even eliminate the capital gains tax bill.

- **Liability for tax debt**

Any past property taxes that are not paid off can result in debt liability for both parties. A search should be done to make sure that there are no unknown outstanding liabilities.

In addition to the above considerations, it is also important to keep in mind that houses are illiquid assets and do not generate any cash inflows. This could be a crucial factor post-divorce, when cash flow may be an issue and the need to own liquid assets is essential. With all of this in mind, obtaining ownership of the marital home is an important decision and it is best to know upfront whether or not the costs outweigh the benefits.

For more information, contact your Anchin relationship partner or Mela Garber, Leader of Anchin's Matrimonial Advisory Group at 212.840.3456 or [mela.garber@anchin.com](mailto:mela.garber@anchin.com) .



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