

## DO I LIVE IN A COMMUNITY PROPERTY STATE? WHAT DOES THAT MEAN TO ME?

Nine states in the United States are community property states. They are: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin. If you live in one of those states and are going through a divorce, what does that mean to you?

### Separate and Community Property Defined

Generally, a spouse's separate property consists of property the spouse owned before marriage or acquired by gift or inheritance during the marriage. It can also consist of recovery for personal injuries sustained by the spouse during marriage, except for loss of earning capacity due to the injury.

Community property consists of the property, other than separate property, acquired by either spouse during marriage. That means, generally, that any property that's not separate is considered community.

What that means is everything that is acquired by both spouses during the marriage is considered community property and is split 50/50. Courts do have discretion to award one spouse a larger share because of fault in the break-up of the marriage or a large disparity in the two spouse's income potential, but generally, it's just split down the middle. Moreover, there are many other subtleties and aspects to community property laws, but this is the general rule. An attorney can explain this to you in greater detail.

### Tough Pill to Swallow

Many spouses find the concept of community property very difficult to accept. Take for example, the husband who has worked 25 years for the same company and is ending a 25 year marriage. In his mind, his retirement money is *his* money; he worked and earned all that money so it all goes to him. The last thing he wants to hear is that he's wrong and under community property laws half of his retirement goes to his spouse. That's especially difficult for that spouse when he feels like his spouse "sat around all day and did nothing while I worked my tail off."

The same goes for the furniture and articles in the home. Many times I've heard a spouse tell me, "That stuff is all mine! I worked to earn the money to buy it all!" Nope. Sorry. Half of it belongs to your wife even though she never worked outside of the home.

### How do I get around this?

There's very little you can do to keep your spouse from getting half your retirement, especially if your spouse wants it. The only way out of it is to give your spouse something else in exchange for their half of a community asset. For example, you might consider giving your spouse all of the equity in the marital home in exchange for your keeping all of your retirement. You can try making a spreadsheet listing all of the marital assets with a column for Husband and one for Wife. Then start shifting assets left and right until you end up with a 50/50 split that you can both accept.