How to split pension plan in divorce settlement

Today, the benefits in employee pen-ion and profite-flaring plans that quali-fy for special tax treatment by the in-ternal feveruse Eevice are fast be-coming the most valuable assets in many marriages.

In 1983, there are fully balf as many diverces as marriages. And while it's relatively easy to divide the value of a boue, it's far more difficult to divide the value of a retiement or profit-shar-ing plan. ing plan.

RETIREMENT PLANS contain many tax benefits. Therefore, when structuring a divorce settlement, it is critical to follow IRS rules so as not to destory the tax benefits. A poorly planned settlement can trigger tax lia-bility to one participant, to both spouses or to all funds in the plan. Federal law prohibits the division of benefits from an IRS-approved retirement plan between divorcing spouses. A simple solution is for the employed approach to pay the non-employed spouse whatever he or also is entitled to from whatever he has retirement plan benefits other than retirement plan benefits other than retirement plan benefits. But what if there aren't enough outside assets? Here is how an actual case was handled.

Was acoused.

RECENTLY, I represented a man we'll cail Dr. Smith in a divorce in a circuit court in southeastern Michigan. He is one of four doctors in a professional corporation. All are participants in the corporation a retirement plans. The benefits in that retirement plans may be the court of the professional comparation and many states in the marital estate of Dr. and Mrs. Smith. A dollar value was placed on all their assets, including the retirement plan. The couple agreed Dr. Smith plan. The couple agreed Dr. Smith could retain certain assets, among them the house.

But Dr. Smith found that If he re-

tained the house, there wouldn't be suf-ficient assets left to pay off Mrs. Smith

ficient assets left to pay off Mrs. Smith her share.

Mrs. Smith's attorney believed the only alternative was to sell the house to generate enough cash to pay Mrs. Smith. He knew the money in the retirement plans could not be transferred to anyone else immediately.

OUR DILEMMA was this: 1. How to obtain for Mrs. Smith

A poorly planned divorce settlement can trigger tax liability to

one participant, to both spouses or to all funds in the plan.

ans.

2. How to allow Dr. Smith to retain

the house.

3. How to do both without jeopardizing the favorable tax treatment that IRS affords the professional corporation's retirement plans. Retirement plans are excellent whiles to accumulate tax-free income.

Here is what we did:

We prepared a deferred payment

Plymouth

agreement that provided there would be no immediate division of benefits in the retirement plans.

Dr. Smith gave Mrs. Smith a promisory note for her share of the retirement plans. He is to pay it off on a specified date.

The note to Mrs. Smith would be paid off earlier if Dr. Smith retired, died, terminated his employment or became disabled, or if the retirement plans were terminated.



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*
FOR FURTHER INFORMATION CALL BOB GOODWIN, ACSW, C.M.C. Licensed Marriage & Family Counselor in Plymouth 459-1120 in Birmingham 540-3739

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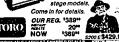
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