

Frequently Asked Questions about ***Equitable Distribution***

When a marriage ends, dividing property and debts can be one of the most complex and emotionally charged parts of the process. North Carolina and South Carolina follow the Equitable Distribution model. This FAQ explains how equitable distribution works.

What is Equitable Distribution?	Equitable Distribution is the legal claim and process of dividing marital property and debts between spouses in a way that is fair, though not necessarily equal.
What types of property are addressed?	Property within the marital estate is classified into three categories: Marital Property, Separate Property, and Divisible Property.
When should I file for Equitable Distribution?	You must file a claim for Equitable Distribution before the divorce is finalized. If you fail to file before the divorce judgment is entered, you will likely lose the right to assistance from the family law courts in dividing the marital estate.
What factors does the court consider when dividing property?	The court may consider various factors, such as income, property, and debts of each spouse; duration of marriage; contributions of one spouse to the other spouse's education or career; contributions as a homemaker; custodial parent's need to stay in the marital home for so long as there are minor children; and more.
Can spouses divide property without going to court?	Yes. Spouses can agree to divide property through a separation agreement or Consent Order. In fact, most Equitable Distribution matters are resolved outside of court through dispute resolution processes such as mediation.
Can debts be divided too?	Yes. Debts acquired during the marriage and accumulated for marital purposes —such as credit card balances, loans, or mortgages—are typically considered marital debts and are divided alongside assets.
Do I need an attorney for Equitable Distribution?	Equitable Distribution matters often prove more complex than simply adding and dividing numbers. Especially if your case involves significant assets, business interests, or disputes over property classification, the assistance of an attorney is key.

