

Frequently Asked Questions about ***Divorce & Your Business***

Divorce can be especially complex when one or both spouses own a business. Whether you are a sole proprietor, partner, or shareholder, understanding how your business may be affected and what steps you can take to protect it are essential. This FAQ outlines key considerations for business owners navigating marriage, separation, and divorce in North Carolina.

How will my business be classified in a divorce?

Businesses can be classified as separate, marital or divisible property depending on a variety of factors. This includes when or how the business was created or acquired, any spousal agreements concerning the business that may exist (such as a prenup, partnership agreement, etc.), if marital funds or labor supported the business, and other related factors.

Will my ex get part of my business in a divorce?

It depends. If the business is considered marital property — meaning the business was started and/or grew in value during the marriage without a spousal agreement defining ownership otherwise — your spouse may be entitled to a portion of its value, even if they were not directly involved in its operations.

What if I started the business before marriage?

The business itself may be considered separate property, but any increase in value during the marriage — especially if your spouse contributed financially or through labor — may be considered a marital or divisible interest in the property that is subject to distribution.

How is a business valued?

Common methods for valuation include the income approach, market approach, and asset approach. The process typically involves reviewing financial records, assessing goodwill and reputation, and evaluating assets, liabilities, and market comparables. Working with a business valuator is recommended as accurate valuation is critical.

What can I do to protect my business?

Some of the most common legal ways to protect your business in the event of divorce include prenuptial or postnuptial agreements that define business ownership and liabilities, and/or including divorce protections in your company's partnership agreement, operating agreement or corporate bylaws.

Do I need a lawyer with business experience?

A family law attorney with experience in business ownership and asset protection can help you navigate the legal and financial complexities of divorce while safeguarding your business interests.

