

American Bar Association



GP|Solo Law Trends & News

Family Law

Question: What Will Forensic Accountants Consider When Consulted on a Divorce?

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Answer: As much as possible.

Divorces today often require the consultation of CPAs who possess expertise in a wide range of accounting, tax, financial, forensic and investigative matters. Findings must be substantiated with convincing, supporting evidence, within a reasonable degree of accounting certainty. Forensic accountants have broad exposure to many industries and business environments. We're trained to look beyond the numbers.

Throughout During a forensic engagement, a CPA typically wades through voluminous amounts of financial and accounting information. This data is often confusing and disorganized, particularly where small businesses are involved, which generally lack traditional accounting controls. The task of a CPA or forensic accountant is to take this disorganized information and interpret it in a logical, reasonable and accurate manner.

The financial aspects of divorce are typically determined based on the representations made by the parties. Unfortunately, divorcing parties often omit—be it purposeful or not—certain assets or income, requiring the CPA to perform a forensic examination. In these instances, the forensic accountant retained by the non-owner or dependent spouse is tasked with preparing a detailed document request aimed at discovering all documents necessary to value the subject business or professional practice. Particularly where it is difficult to amend an initial information request, it is important that the forensic accountant compile a comprehensive document request from the outset. And, in cases involving improprieties or a failure to disclose, this list should be expanded even further.

What information does a forensic expert use to value a business or professional interest? The documents listed below are some of the basic documents that a forensic expert must analyze:

- Business and personal tax returns;
- Accountant workpapers;
- Expense receipts;
- A listing and aging of accounts receivable and accounts payable;
- General ledgers;
- Internally-generated financial statements, or those prepared by an accountant; and
- Regulatory filings.
- Documents showing ownership interest, such as stock certificates or gift tax returns.

To illustrate how the analytical process works, take, for example, just one item on the list—the personal income tax returns. The

following entries on the returns may reveal clues to hidden assets or at least foster additional questions:

- Interest and dividends may reveal the existence of securities or amounts owed from third parties;
- Wages listed on W2s may reveal the existence of pension plan, 401k, tax sheltered annuity, deferred compensation, child care payments, etc;
- Schedule E may reveal rental properties, trusts (possibly used to hide marital assets), estates, partnerships and other flow-thru interests;
- Income tax refunds may reveal hidden assets, if used to purchase another asset or overpaid while married resulting in receipt subsequent to final divorce;
- Pension or IRA distributions may reveal additional assets;
- Capital gains and losses may reveal additional assets;
- Interest expenses may reveal the existence of loans with possible underlying collateral;
- Gambling income/losses may reveal the dissipation of assets;
- Miscellaneous itemized deductions, such as financial planning fees, may reveal an entire planning file, or IRA fees may reveal additional IRAs; or safe deposit box rental deductions may reveal the existence of safety deposit boxes.

Document requests should be tailored as specifically as possible to the particular facts of each case and provide for one or more follow-up requests. If parties are cooperative or if the business interest to be valued is straightforward, the initial document request need only cover known essentials. The parties may agree to allow the forensic accountant to view additional information during later interviews of supplemental document requests, as necessary. Where the parties are uncooperative, or the business interest to be valued is complex, the forensic accountant should create as detailed a list as possible. Unreasonably burdensome lists serve no useful purpose, however, and the forensic accountant should rely on his experience and judgment to create a reasonable and manageable document list for the specific circumstances.

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