



## What Happens to My Trust During a Divorce?

### Are Trusts Considered Marital Property in Texas?

Texas is what's called a community property state. This means that means and debts gained during a marriage are the participating property of the couple. It does not say which partner acquires the property, but it'll be presumed a participating property if it was acquired during the marriage. During a divorce, connubial property is supposed to be divided fairly between the two parties. Still, this doesn't always mean a 50 /50 split of every asset. The distinction between connubial and separate property is outlined in Texas Family Code§3.001 &3.002.

### Separate property is defined as property that was acquired

- Before the marriage
- During the marriage through gift, concoct, or descent( ex heritage)
- As recovery for particular injury sustained during the marriage( minus any compensation for lost stipend during the marriage)

Numerous families also have what's pertained to as mixed property or mixed character property. These are means or fiscal effects that contain both separate and connubial property. For illustration, suppose someone has a withdrawal account established before marriage but contributed connubial finances to that account during the marriage. In that case, it'll probably be considered mixed property and subject to property division during divorce. Situations like this frequently bear some “ dogging ” to determine how important is participating and how important is separate. also, there are situations in which income from separate property earned during a marriage will be classified as connubial property.

When dealing with trusts during a divorce, the courts will first have to determine whether the trust is connubial property or separate property, or some blend of the two. When the trust was established, where the finances for the trust came from, who the devisee/ heirs are, and the terms of the trust will all be considered when determining how to deal with the trust during the divorce process. The courts may also examine how the trust finances or income from the trust fund has been used during the marriage.

There are several different types of trusts; some of the most common include

- Revocable trusts
- Irrevocable trusts
- Spendthrift trusts
- Special requirements trusts
- Charitable trusts

still, the courts may bear that the trust be dissolved and the means distributed between the two parties, If a trust is determined to be connubial property.

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## Trusts & Prenuptial Agreements

In some cases, a trust fund may be defended from property division by including it in an adulterous agreement. A prenup must be established before the couple marries and should easily outline how the trust fund in question should be handled in the event of a divorce. Likewise, the connubial agreement must be entered into freely by both consorts and be fairly valid.

Still, just because a trust fund is included in an adulterous or postmarital agreement does not mean that it's automatically defended. You should speak with your attorney about the situation. However, your counsel can help you defend your connubial agreement and help you prove the trust is truly separate property, If necessary.

## How to Keep Your Trust Separate from Marital Property

When going through a divorce, you'll probably have to prove that your trust fund is truly separate from your connubial property. Just having established trust prior to marriage isn't enough. However, you should consult with an educated attorney, If you're concerned about keeping your trust fund separate from your connubial property. This is especially the case if you have a trust and are going through a divorce. Your attorney can help you prepare for the divorce process and use their experience to guide you in dealing with your trust.

still, your counsel can help you through the delicate property division process, If your trust is classified as connubial property. In some cases, you may not have to dissolve the trust, and with help from your attorney, you may be suitable to keep the trust complete. For illustration, you and your former mate may agree that the person wanting to keep the trust fund complete will take on further of the couple's participating debt, or the other person will be awarded more material property, like real estate or vehicles, to insure that means are indifferent.

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