

Sacramento Divorce Law from A to Z

D is for Debt

**By Matthew Crider, JD
Family Protection Attorney**

As a Sacramento Divorce Lawyer, someone usually asks me every day about how debts are divided in a divorce. Debts are divided in a divorce just like assets are, but division isn't the end of the story. A huge issue is which spouse ultimately may have to pay the liability.

Regardless of the spouse that was assigned the debt by the dissolution judgment, the debtor spouse remains personally liable for his or her debts incurred before or during marriage. In seeking to collect, creditors may reach the debtor spouse's separate property as well as his or her share of the community estate received in the property division. In other words, if your name is on an obligation and the property division judgment assigns it to your (ex) spouse, the creditor can still come after you.

However, if the nondebtor spouse was assigned the debt as part of the property division, the debtor spouse has a right of reimbursement to the extent he or she is compelled to pay the obligation. In other words, you can seek reimbursement from your (ex) spouse if you had to pay a debt that was assigned in the divorce judgment to your (ex) spouse.

On the other hand, unless the nondebtor spouse was assigned the debt by the divorce judgment, he or she is not personally liable for the other spouse's debts incurred before or during marriage. The nondebtor spouse's separate property and his or her share of the community estate awarded by the dissolution judgment may be reached by creditors only if payment of the debt was assigned to the nondebtor spouse in the property division. In one case, for example, the appellate court ruled that the wife was not liable for the husband's hospitalization debt incurred after the date of separation which was not assigned to wife by the divorce judgment.

It is an open question under California divorce law whether a divorce judgment assigning the debt to the nondebtor spouse can be enforced by the creditor in a suit against the nondebtor spouse. Courts have ruled both ways. In other words, it is an open question about whether a creditor can go after your (ex) spouse for one of your debts that the divorce judgment assigned to your (ex) spouse.

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As you may have guessed by now, it is important for any divorce judgment to clearly state which debts are assigned to whom, and who has responsibility for specific debts. If the judgment does not state this information, a court may decide that your (ex) spouse you thought was responsible for the debt actually is not liable for it.

About Matthew Crider, J.D.

Matthew Crider formed [Crider Law PC](#) in 1999 so he could help individuals through the California divorce process by providing creative solutions as their trusted advisor and legal counselor. His divorce and family law practice focuses on assisting people in dissolution matters, including divorce, child custody and visitation, child and spousal support, spousal support and alimony, and parental rights.

