

## What About Gifts Between Spouses?



Gifts that spouses give each other during the time they lived together are treated as family property. This means they are normally divided equally if the relationship ends.

You can always come up with your own agreement on how to deal with gifts.

## Settle it together or ask the court

Spouses can negotiate their own agreement about how to divide family property and debt fairly. If they can't agree, they can apply to the Supreme Court to decide.

### Note



A spouse can apply to the court to change or cancel an agreement that is **significantly unfair** or if a spouse did not share all their financial information.

## Time Limits



You must apply to court to divide property and debt:

- Married: within **2 years** from the date your divorce is final
- Common-law: within **2 years** of your date of separation

For more information see [www.familylawinbc.ca](http://www.familylawinbc.ca)



**Need Help?** Ask Legal Help BC  
Call or Text 1-855-875-8867



*This pamphlet provides legal information only, not legal advice. Consider speaking with a lawyer.*

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Justice Education Society

# WHO GETS WHAT?

## PROPERTY & DEBTS AFTER SEPARATION

[www.familylawinbc.ca](http://www.familylawinbc.ca)



Family property & debt  
are usually divided  
equally between the  
two of you...

*unless you make a different agreement.*

The court can order an unequal split of property or debt if a 50/50 division would be **very** unfair.

## What Gets Divided?



Most family property is divided when you separate or divorce. **Family property** includes everything you and your ex spouse own, together or separately, on the date you separate – including:

- The family home
- RRSPs and pensions
- Bank accounts and tax refunds
- Investments and businesses
- Income tax refunds
- Any increase in value of excluded property during the relationship

## What About Debt?



**Family debt** is any debt either spouse took on during the time you lived together or were married. It is also usually divided equally. This includes:

- Mortgages
- Loans from family members
- Lines of credit or overdrafts
- Credit cards
- Income tax owed

### Note



It does not matter whose name the property or debt is in. Under the law, it may still be considered family property or family debt.

## What Doesn't Get Divided?

Property that does not get divided is called **excluded property**. Excluded property does not have to be shared when you separate.

## What Counts as Excluded Property?

Excluded property includes:

- Anything you owned before you lived together, like money, homes, or cars
- Gifts given to only one spouse by someone else
- Inheritances received by only one spouse
- Property that you and your spouse agreed would be excluded in a marriage or cohabitation agreement

What if excluded property increases in value?

If the value of excluded property goes up during your marriage or while you lived together, the increase in value is considered **family property** and must be shared.

