
- New York Equitable Distribution FAQ's -

1. What is equitable distribution?

It is a method for distributing property acquired by owned by either spouse upon the dissolution of the marriage, which replaces "common law" principles of property ownership. Prior to the adoption of "equitable distribution" in New York, New York was a " common law property " state. This meant that upon the dissolution of the marriage, the property owned by either spouse was distributed according to the manner in which title was held. New York is now an "Equitable Distribution State." This means that upon dissolution of a marriage, the Court must distribute "equitably" all "marital property" regardless of the manner in which title is held, considering several statutory factors.

2. What property is subject to equitable distribution?

All property acquired by either or both parties during the marriage, but before execution of a separation agreement, and before commencement of a matrimonial action, regardless of the form title is held.

It does not include property provided for in a written agreement. It does not include "separate property", which is defined as property acquired before marriage; property acquired by bequest, devise, descent or gift from a party other than the spouse; compensation for personal injuries; property acquired in exchange for or the increase in value of separate property; property described as separate property pursuant to written agreement of the parties. However, the increase in value of separate property (or property acquired in exchange for separate property) is marital property to the extent that the appreciation is due in part to the direct or indirect contributions or efforts of the other spouse.

3. Is my business or professional practice subject to Equitable distribution?

Yes. Businesses and professional practices, are "property" subject to equitable distribution.

4. Does equitable distribution mean that all marital assets get evenly split?

No, equitable does not mean equal. Marital property must be distributed equitably between the parties, considering the circumstances of the case and of the respective parties.