Separate bank accounts will not protect your money in a divorce—here's what will

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A scene from Bravo's "Girlfriends' Guide to Divorce," starring Lisa Edelstein as Abby McCarthy.

Diyah Pera | Bravo

Millennials, once again, are doing things differently than prior generations. It turns out 28% are forgoing the traditional joint bank account after marriage and opting to keep their finances completely separate, according to a Bank of America survey.

That's more than double the number of Gen X and baby boomer couples who keep their money separate. That may be because it's easier than ever to keep things separate with apps like Venmo and Zelle, which allow you to pay your partner on the spot.

It may also be because they've witnessed firsthand how difficult it can be to divide assets during divorce. Elizabeth Bracher, a 29-year-old living in Ohio, tells CNBC Make It that she plans to keep her finances separate after she marries her fiancé, Zach Sullivan, in August.

"We are separate in our finances and we're planning to keep it that way once we get married," Bracher says. "We're both children of divorce so we're kind of leery about combining our finances," she adds.

But divorce experts say that's a common misconception. Just because your name is on the account, or the deed to the house, doesn't mean it's yours alone. Especially if you're in the process of getting a divorce.

"People will think, 'Well, the house is in my name, so I get to keep it' or 'I put all of my income into my own separate bank account, so it's all mine,'" Susan Guthrie, a family law attorney and mediator, tells CNBC Make It.

But that's "100% wrong," she says. No matter your state's laws, once you get married, you should never just assume that your assets will remain yours if you get a divorce.

Separate bank accounts typically don't protect your money

Many financial experts will say that maintaining separate bank accounts, or having a "yours, mine and ours" system is the best way to manage your money in a marriage.

"If you have two working spouses, it reduces conflict," Laurie Itkin, a financial advisor and certified divorce financial analyst, tells CNBC Make It. If you agree which expenses are going to come out of the joint account — costs such as your mortgage or rent payment, groceries, utilities — and then you each decide that personal expenses comes out of your personal account, there's nothing really to fight about, she says.

But the benefit of this money management system is mostly psychological, rather than legal. If you live in a community property state, anything acquired during the marriage — including the income used to fund those separate accounts — is considered "community property" and therefore belongs to both spouses. Residents of Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin fall into this category.

The rest of the country operates under equitable distribution laws, which generally recognize that property acquired during the marriage belongs to the spouse who earned it. Sounds simple, right?

Not really. A good attorney will be able to argue that any assets acquired by either spouse during the marriage should be considered "marital property" and subject to division, Itkin says. Usually any assets are divided fairly, but not necessarily equally. And sometimes, a judge may decide that one spouse's separate property should be used to fund a settlement that's fair to both spouses.

That's not to say keeping some money in separate accounts is useless. Having some funds in a separate bank account can help if you need quick access to money if the divorce turns acrimonious and one partner limits access to the joint funds. In fact, as a safety measure, Itkin recommends always having one checking account in your own name and one credit card in your own name.

"When it comes to cash flow in a crisis situation, you want to have access to some money and not fear your disgruntled spouse will lock you out," says Guthrie, who runs Breaking Free Mediation.

Money is control, Guthrie adds. At the time of the divorce, if one spouse is the one who has control over all the bank accounts and credit cards, it may require going to court and getting orders to pay for everyday expenses, such as childcare, household bills or retainers for the attorneys.

Having cash put away will give you ready money to get through the divorce, even if you do eventually have to factor it into the settlements or divide it up, Guthrie says.

Here's what to do if you want to protect your money

No matter what state you live in, there are a few ways to protect yourself in the event of a divorce. Especially if you brought a lot of money or property into the marriage.

Itkin's advice: Get a prenup. This is the best and easiest way to protect your assets, she says. And more people are turning to this solution. Almost two thirds of lawyers say they've seen an increase in the total number of people using prenups in recent years, according to a survey from the American Academy of Matrimonial Lawyers. Lawyers say they're seeing a boost in millennials, in particular, using them.

A side benefit to getting a prenup is that it forces couples to talk about their finances. "There's a lot to be said about having some of these conversations about what is marital [property] and what is not," Guthrie says. "You can always change it or modify it," she says, adding she's even seen couples nullify their agreements.

If you don't want to go the prenup route, Guthrie says it's worth printing out or saving digital copies of all your account statements for the month before you marry. That way, you know exactly what you brought into the marriage and have proof should you ever need to divide everything up.

If you receive an inheritance while you're married, you should keep it completely separate. You may be tempted to, for example, upgrade your kitchen or take on another long-awaited home improvement project. But if you do that, that money is typically considered "commingled" and it's difficult to reclaim it as strictly your own.

If you can't trace where the money came from (which can be difficult 10 or 20 years down the line), then you typically have more trouble claiming it as your money, Itkins says.

At the end of the day, Guthrie says you need to manage your finances in a way that's comfortable for you. But for all the extra effort it takes to keep finances completely separated, don't buy into the myth that it will give you more protection if the relationship ends in divorce.

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