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Now, breaking up is easier to do

For the ultrarich, at least. With bonuses shrinking and recovery near, it might actually pay to divorce

By [Hilary Potkewitz](#)



For most, dissolving a marriage has become prohibitively expensive, and divorce rates nationwide have plummeted during the economic crisis. But for a subset of New Yorkers, particularly high-tax-bracket financial and legal types, divorce is the latest means of wealth preservation.

“For those high-wage earners who are in a marriage that they want to end, there has never been a better time to get divorced,” says Jason Marks, a partner with law firm Kluger Kaplan Silverman Katzen & Levine.

Since most financial executives earned less over the past year or two than at any point in a decade, filing for divorce now means a much lower income for calculating alimony. The end of hefty cash bonuses on Wall Street is also nudging unhappy couples into divorce, and the nearly 40% drop in investment portfolios since the 2007 peak means there's less to divide.

Dollars and sense

“Unlike stocks, when it comes to divorce, you want to buy high and sell low,” Mr. Marks explains. “These are the low-earning years.”

Big Apple divorce filings dropped to about 27,000 in 2009, from more than 32,000 in 2006, according to State Supreme Court data. Federal numbers show a similar trend nationwide, with divorce filings dropping more than 25% from 2006 to mid-2008.

In the first quarter of 2009, divorce work came to a virtual standstill in New York and across the United States, attorneys report. “I’ve been in this business 15 years, and it was the slowest I’d ever seen,” says Nancy Chemtob, a partner at boutique law firm Chemtob Moss Forman & Talbert.

Many took the divorce lull as a sign that the recession was bringing people together. But that’s a fairy-tale interpretation, according to family lawyers, therapists and real estate agents who’ve witnessed a major uptick in divorce-related work over the past few months.

“Love is not in the air,” reports Sue Moss, a partner at Chemtob Moss. “Since January, it’s been insane. We’re the busiest we’ve ever been.”

New York County has the highest concentration of high-net-worth divorces, according to David Aronson, a partner at Sheresky Aronson Mayefsky & Sloan, the largest stand-alone matrimonial firm in the city. About half of his clients work in finance.

Selling short

The recent divorce boomlet, he explains, is being driven by what many in the business are calling “short-sellers”: Spouses, usually men, who enjoy top positions at banks, hedge funds or law firms, are deciding to divorce now, just as the economy is starting to recover.

Typically, when marriages sour in the high-net-worth set, the husband wants to avoid a costly breakup, Mr. Aronson says. “Now, he’s thinking, I may as well get divorced now, because half of nothing is nothing. I’ve made a number of fortunes in my life, and I’ll make another one soon without her.”

The end of the holidays often ushers in a new crop of divorces, says Lois Liberman, a partner in the matrimonial group at Blank Rome, which handles divorces for clients with assets of at least \$2 million and annual incomes of at least \$500,000.

“People think, it’s a new year—why don’t I get rid of my spouse?” she says. This year, her group’s been “going like gangbusters.” The firm has seen 25 new matrimonial cases since January, compared with just 19 new cases in all of 2009.

Looming large among her clients, she says, is the bonus factor. Public outrage last year over bank bonuses and the resulting government crackdown caused banks to pay most of their

bonuses for 2009 in stock grants and options, which typically don't vest for three to five years, rather than in cash.

“If anything, it's the bonus that's impacting decision making,” Ms. Liberman says. Because stock options usually require the executive to stay put for several years, the asset is considered future earnings, rather than part of a marital estate to be divided in a divorce.

“It's become, 'Let me get rid of her now, because this [stock] won't vest for a while,' “ Ms. Liberman says.

For lawyers representing the wives in these cases, the race is on to craft a divorce agreement that captures some of that future income. “People are getting a lot less than they would otherwise be entitled to,” Ms. Moss says.

Not much action

To be sure, many unhappy New York couples earn less than \$500,000, even in a good year. And for them, divorce rates are more closely mirroring the national trend of inaction. Manhattan psychotherapist Irina Firstein has at least a dozen clients in such a holding pattern.

“Couples are staying together, but not so they can work it out,” says Ms. Firstein, whose clients tend to be professionals earning \$100,000-plus. These are couples who want to get divorced, she says, but either can't sell their Manhattan apartments or feel they need to wait for a better price.

“It's actually a really horrible thing,” says Ms. Firstein. “I predict that once things level out, there's going to be a flood of divorces.”