If You See Something, Say Something

Navigating Complex Asset Matters During the Collaborative Process

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Jordan P. Egert, CPA, CFE, CDFA®
Jamie S. Blum, CPA, CDFA®
September 21, 2022

Meet the Presenters



Jordan P. Egert, CPA, CFE, CDFA®
Senior Manager of Divorce Financial Planning & Litigation Support
jegert@cbmcpa.com | 240-781-6203

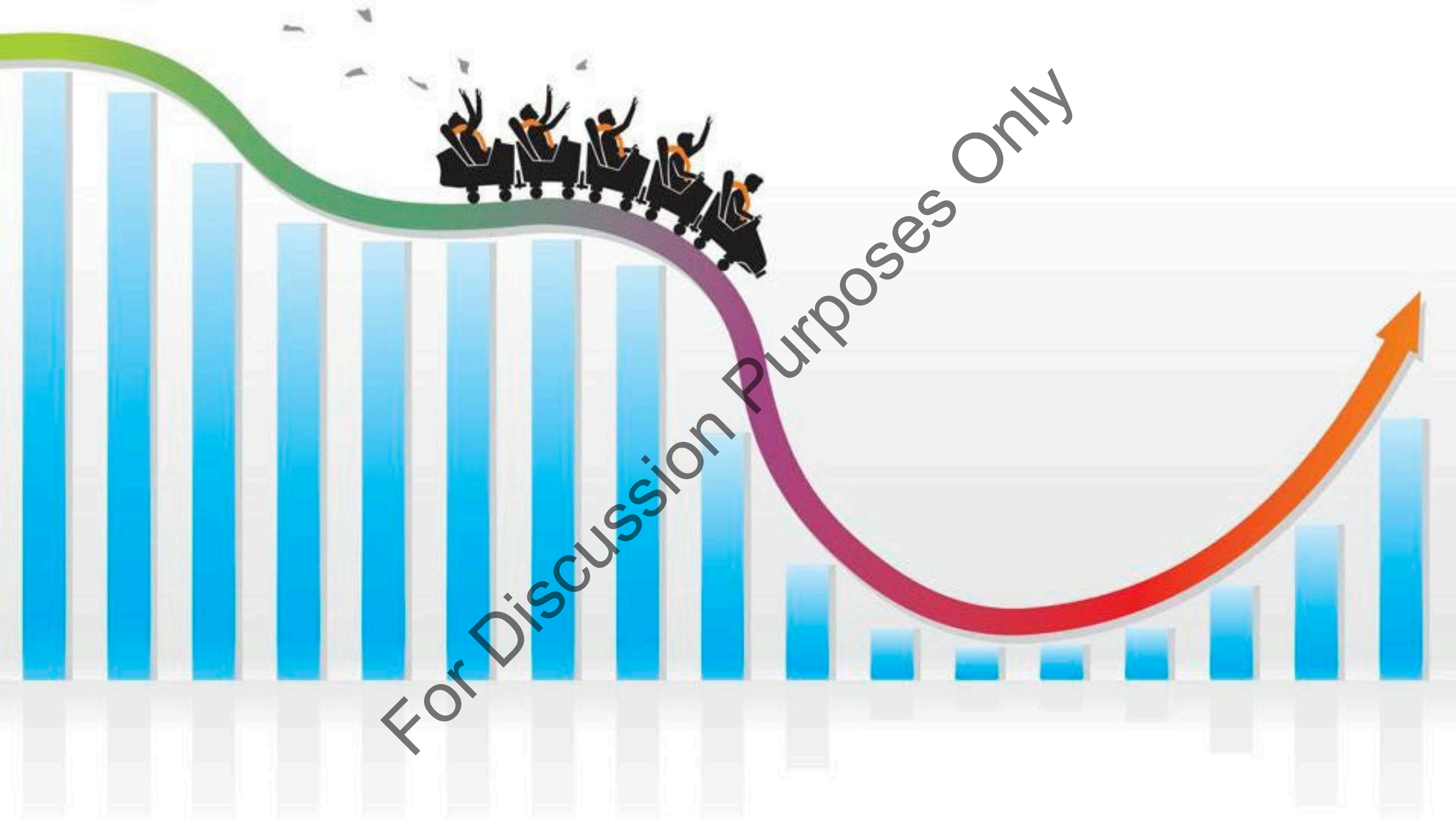
- Divorce Financial Planning & Consulting
- Litigation Consulting
- Forensic Accounting
- Tax Strategy and Consulting



Jamie S. Blum CPA, CDFA®
Senior Manager - Divorce Financial Planning & Litigation Support
jblum@cbmcpa.com | 240-781-6217

- Divorce Financial Consulting & Mediation
- Divorce Financial Planning, Strategy & Analysis
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Learning Objectives

As a result of participation in this course:

- Attendees will have a better understanding of complex financial issues in the collaborative environment.
- Attendees will learn how to identify complex financial issues, when they may not be apparent
- Attendees will learn about expanding on goals and needs to develop relevant options.

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Timely Issues

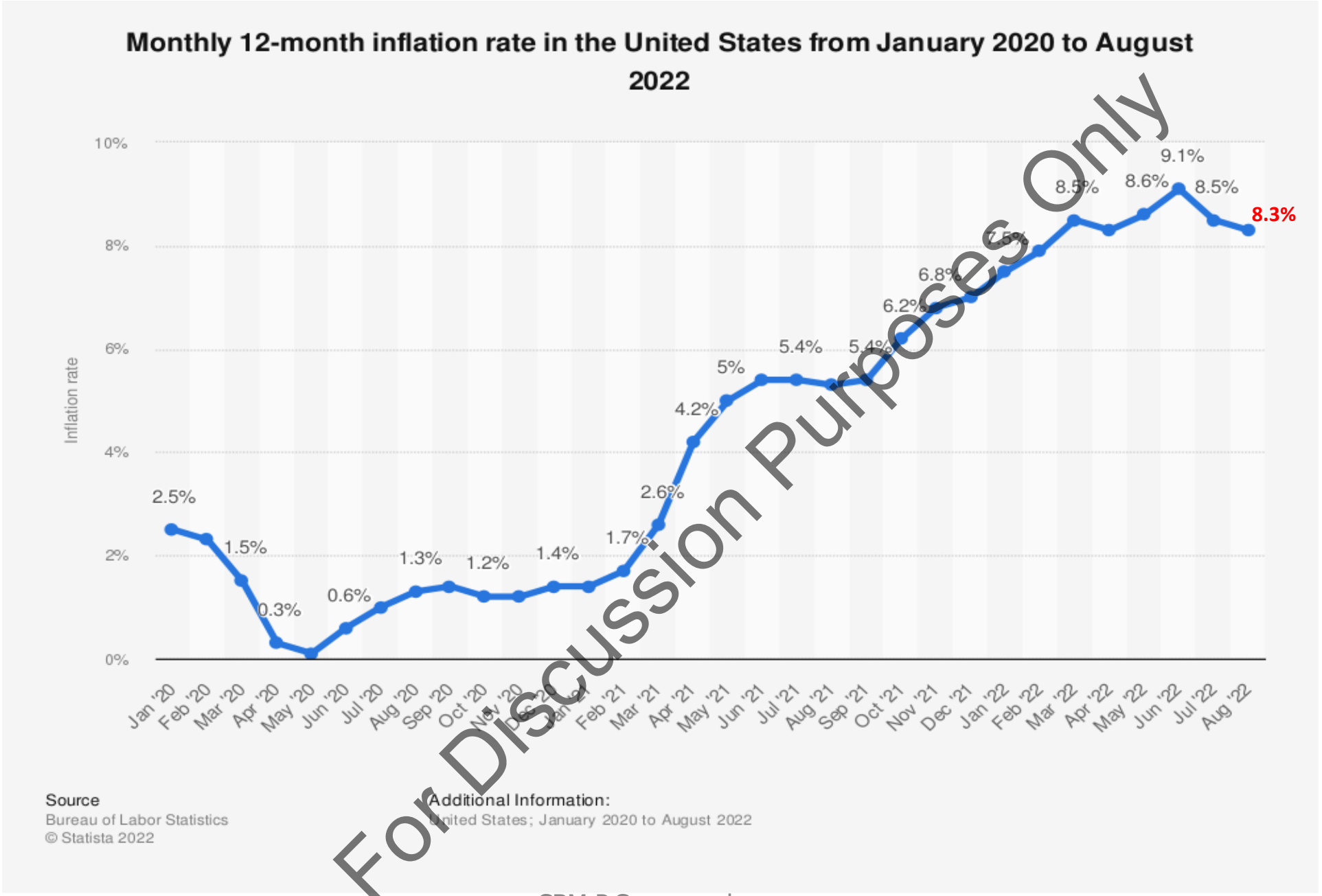
September 2022:

- Inflation
- Taxes
- Interest Rates



HEADLINE 9/21/22 : FEDERAL RESERVE
Fed raises rates by another three-quarters of a percentage point, pledges more hikes to fight inflation

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Topics

TOM CRUISE AND NICOLE KIDMAN
FINANCIAL SCHEDULES
BY TITLE

DATE OF MARRIAGE: 12/24/2000

ASSETS	TOTAL	TOM	NICOLE	JOINT
MARITAL HOME	-	-	-	-
OTHER REAL ESTATE	-	-	-	-
CASH	-	-	-	-
INVESTMENT ACCOUNTS/CRYPTOCURRENCIES	-	-	-	-
EMPLOYEE BENEFITS	-	-	-	-
BUSINESS INTERESTS	-	-	-	-
RETIREMENT ACCOUNTS	-	-	-	-
LIFE INSURANCE	-	-	-	-
AUTOMOBILES	-	-	-	-
PERSONAL PROPERTY	?	?	?	?
MILEAGE AND POINTS	?	?	?	?
OTHER ASSETS	-	-	-	-
SUBTOTAL ASSETS	-	-	-	-

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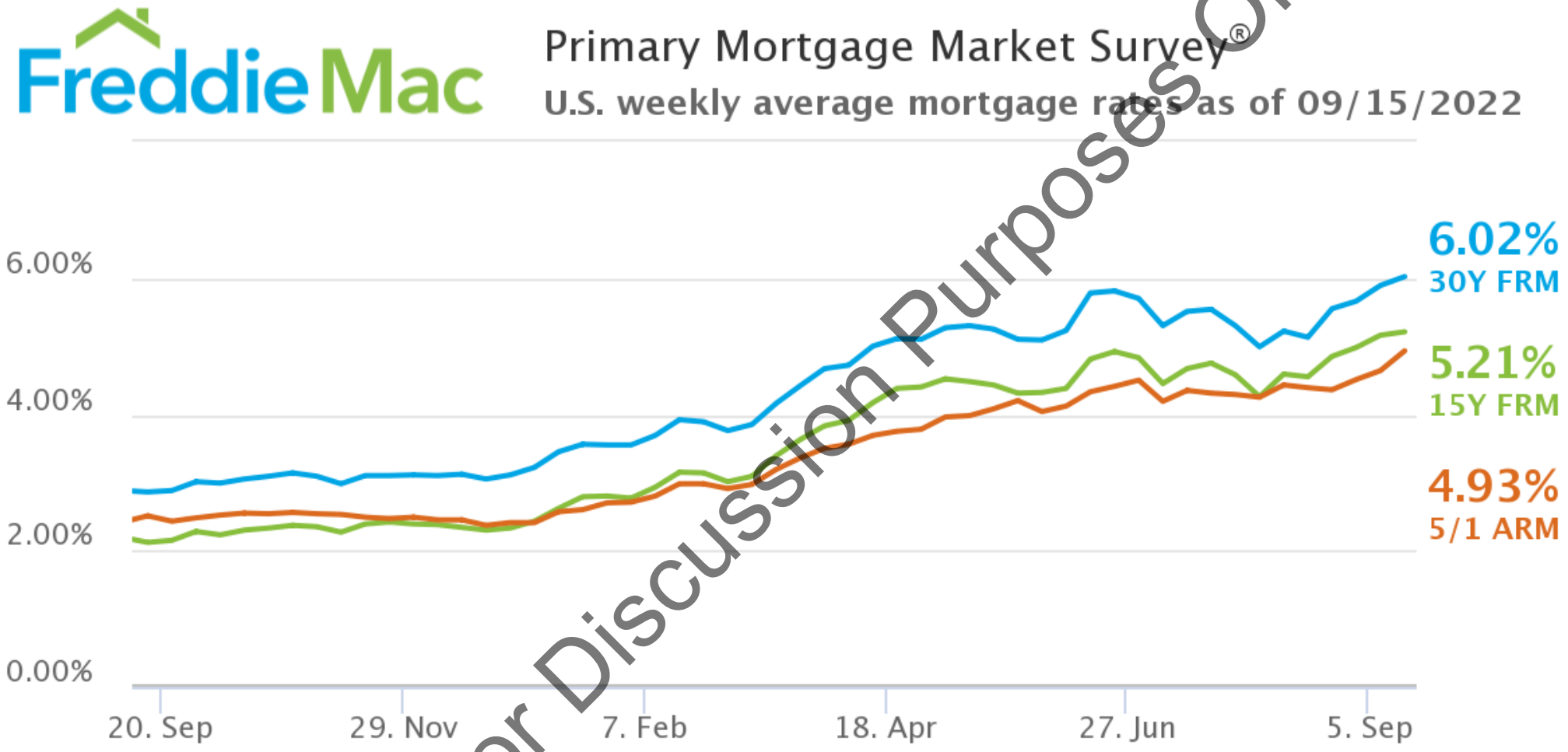
Marital Home

- What has happened to the housing market over the past year?
  - Mortgage interest rates
  - Rental and housing prices
  - Housing inventory



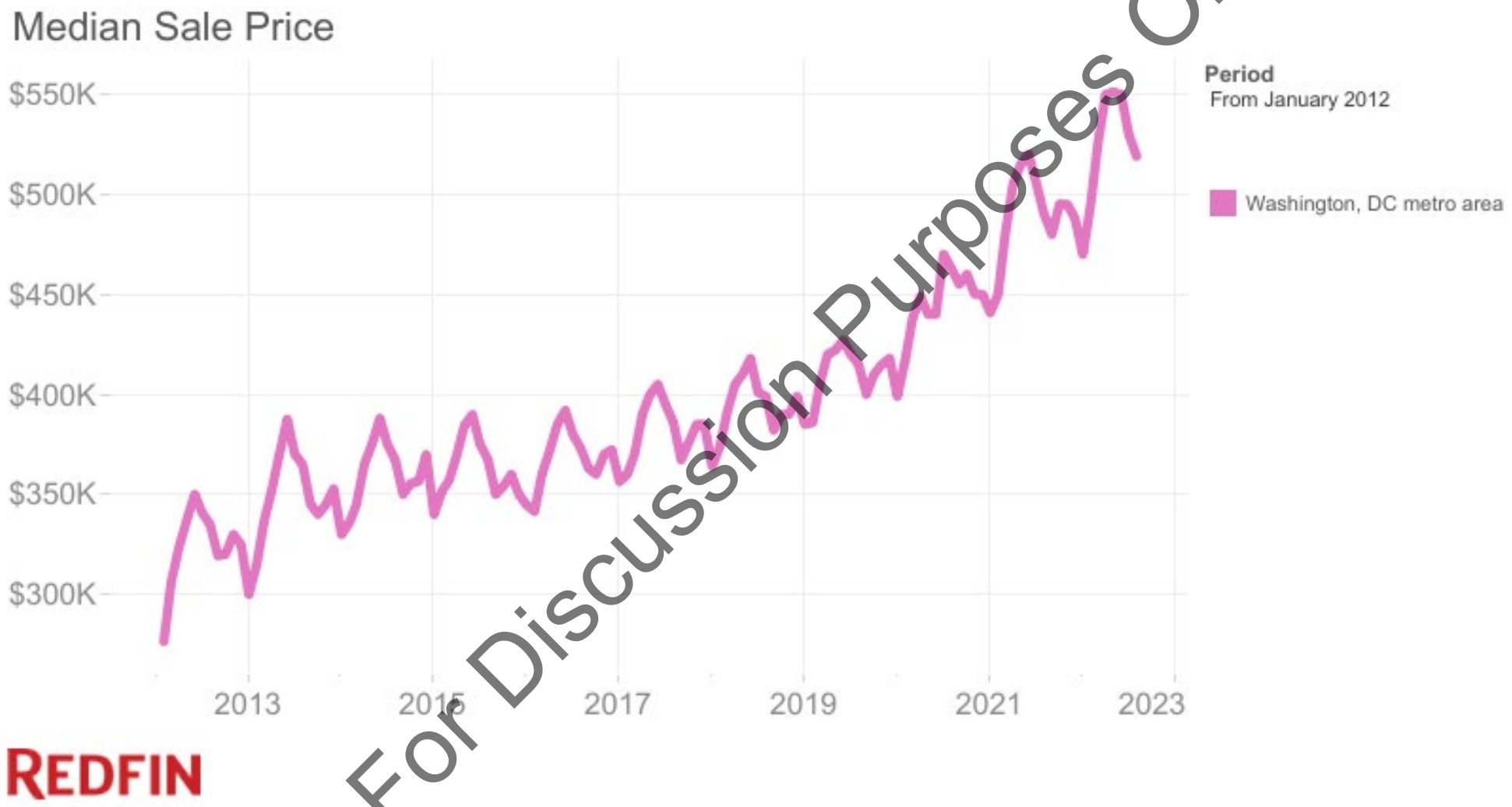
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Mortgage Interest Rates



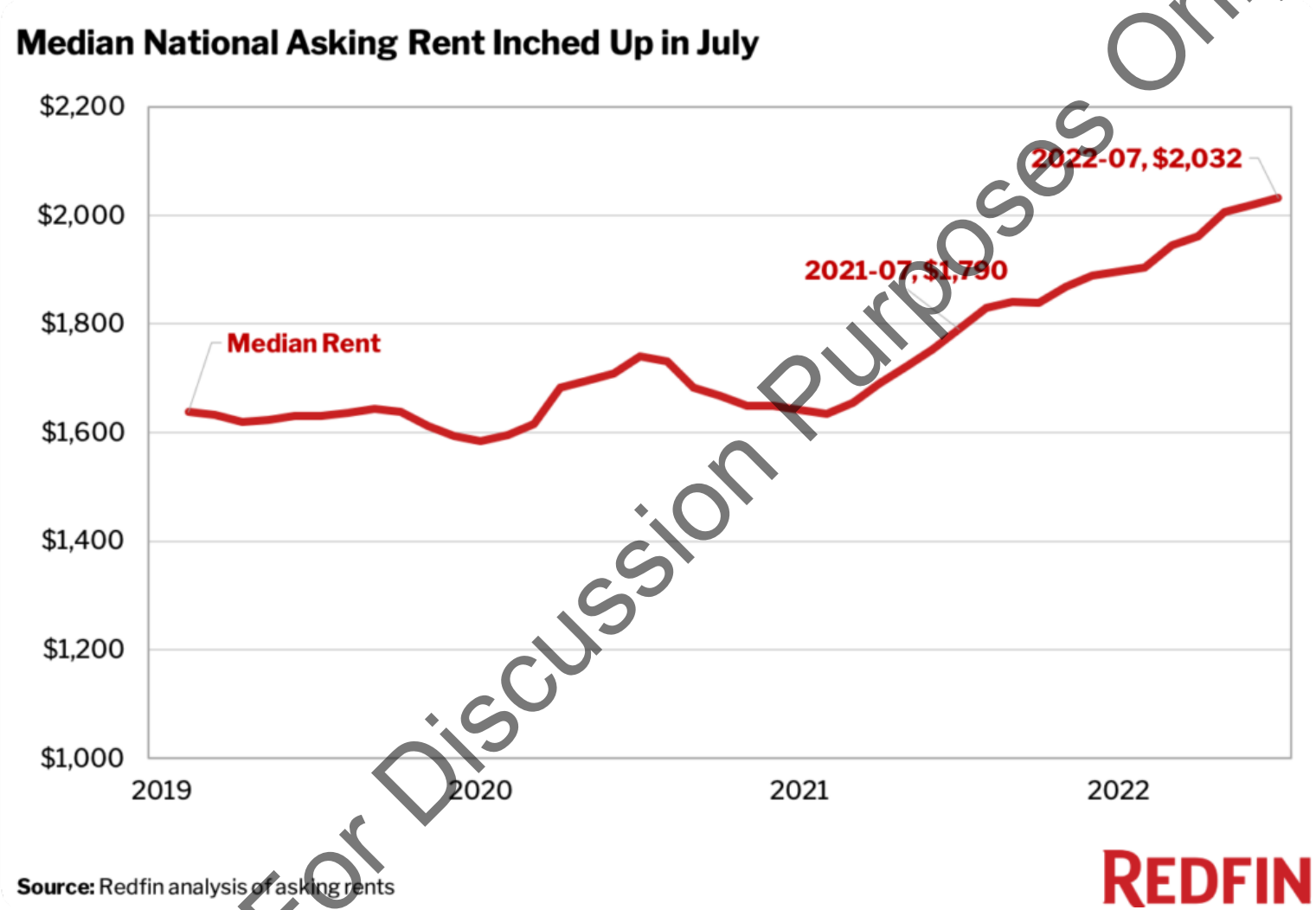
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Housing Prices



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Rental Apartment Prices



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Marital Home – Identifying Flags

- Buzz Words or Questions
  - My home used to be a rental or we are renting our home that we used to live in.
  - How can we afford to buy two homes?
  - We don’t have much besides our home and our retirement assets.



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Marital Home – Complexities and Concerns

- What are the clients' goals and needs?
- What to Do With the Primary Residence?
  - **Sell the home**
    - Equity – how to equalize / equitize the proceeds



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Marital Home

Taxes

- Capital gains
- 2-out-of-5-year test for the Capital Gains Exclusion
- Prior or current rental or business use (HINT: the government wants their money back)
  - **Depreciation recapture**
  - Possible additional taxes –
  - NIIT, Medicare, additional state



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Marital Home

(E)	CAPITAL GAINS CALCULATION		
		Original Purchase Price (a)	$ 590,000
		(per Alexandria Property Search, 12/16/13)	
		Improvements (b)	$ 135,000
		(per client provided notes)	
		Other Costs	
		Depreciation taken	$ (44,820)
		TOTAL	$ 680,180
		NET SALE PRICE	863,300
		GAIN (LOSS) ON SALE	183,120
		EST. CAPITAL GAINS TAX	23,157
		EST. DEPRECIATION RECAPTURE	13,334
		EST. NIIT	-
		EST. ADD'L MEDICARE	-
		EST. ADD'L STATE	-
		TOTAL ESTIMATED TAXES	**36,491**

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Marital Home

- **Keep the home**
  - Own the home together for a period of time
    - Nesting
    - 'Staying' spouse can't afford to pay their share of the equity to the 'leaving' spouse
    - 'Staying' spouse can't assume or refinance the loan to take 'leaving' spouse off the mortgage loan
    - **Joint Homeownership Worksheet**

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Marital Home – Approaches and Methodologies

Joint Home Ownership Worksheet – Scenario 1

Spouse A to Reside In Home	**What is a fair amount for Spouse A to pay to stay in the home?**		
	IT DEPENDS….		
Expense	**Monthly**	**Rent (1/2) collected by Spouse B**	$ 2,250.00
House Mortgage, PIT	$ 2,000.00	Pays 1/2 of expenses	$ (1,000.00)
		Net To Spouse B	$ 1,250.00
Total Monthly House Cost	**$ 2,000.00**		
Each split house expenses 50/50	$ 1,000.00	**Spouse A**	
		Pays 1/2 of house expenses	$ (1,000.00)
Rental rate, comps at $4500	**$ 4,500.00**	Pays 1/2 of market rent to Spouse B	$ (2,250.00)
1/2 off the rent would go to Spouse A			
So only 1/2 is due to Husband		Spouse A pays full mortgage and ins	$ 2,000.00
		Spouse A Actual	$ (1,250.00)
		Pay to Spouse B	**$ 1,250.00**

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Marital Home – Approaches and Methodologies

Joint Home Ownership Worksheet – Scenario 2

Spouse A to Reside In Home	**What is a fair amount for Spouse A to pay to stay in the home?**		
	IT DEPENDS….		
Expense	**Monthly**	**Rent collected by Spouse B**	$ 2,250.00
House Mortgage, PIT	$ 5,500.00	1/2 of expenses	$ (2,750.00)
		Net To Spouse B	$ (500.00)
Total Monthly Cost	**$ 5,500.00**		
Each split house expenses 50/50	$ 2,750.00	**Spouse A**	
		1/2 of expenses	$ (2,750.00)
Rental rate, comps at $4500	**$ 4,500.00**	Pays 1/2 of market rent to Spouse B	$ (2,250.00)
1/2 off the rent would go to Spouse A			
So only 1/2 is due to Husband		Spouse A pays full mortgage and ins	$ 5,500.00
		Spouse A Actual	$ 500.00
		Pay to Spouse B (negative to Spouse A)	$ (500.00)

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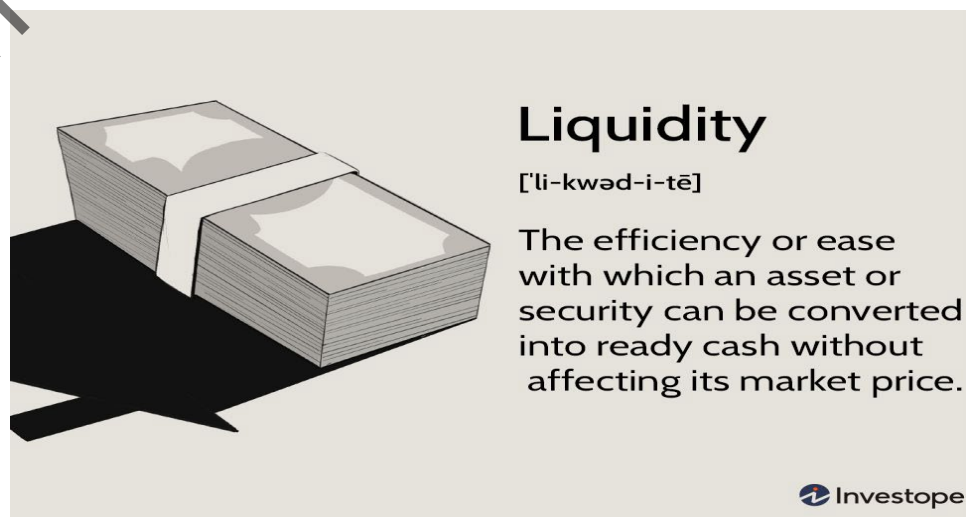



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Cash

- The Basics:
  - What is "cash" ?
  - What are "cash equivalents" and liquidity
  - Why is it important?
- In the collaborative process
  - Identifying flags
  - Complexities
  - Discussions

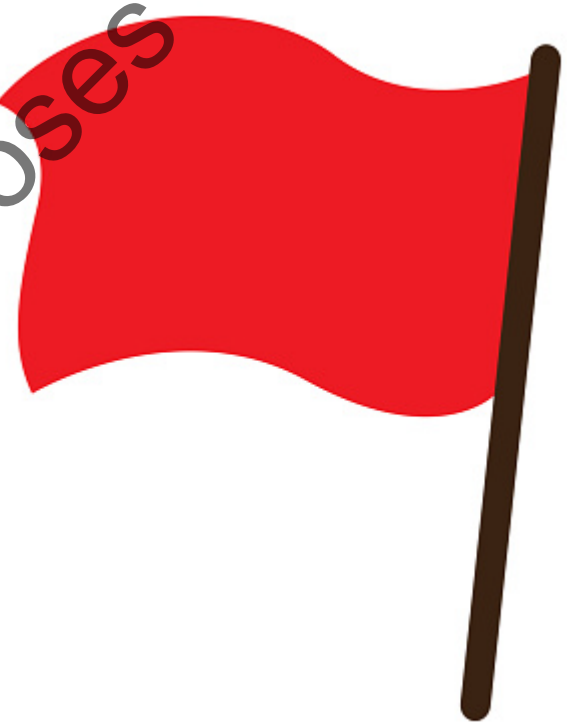




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Cash – Identifying Flags

- Stop – Make time to specifically discuss cash considerations
- Look – Identify available sources
- Listen - Verbal Cues and Nonverbal



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Cash – Complexities and Concerns

- Economic volatility
- Limited resources
- Limited replenishment opportunities
- Inflation is causing decreases in purchasing power
- Needs vs. Wants may not align
- Fear of the unknown
- Comfort

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Cash – Approaches and Methodologies

1. Focus on cash and cash needs
    1. Develop a short and mid-term budget and cash flow analysis (watch for one-time expenses)
    2. Stress test cash flow and available assets
    3. Explore uncommon sources of liquidity
    4. Review catastrophic cash needs
2. Then, develop global division options
3. Last, revisit excess cash for division purposes

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Investments

What are investments?

(Most common, non-retirement)

- Stocks
- Mutual Funds
- Bonds
- Small Business Ownership
- Rental Properties
- Cryptocurrency



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Investments – Identifying Flags

- Owning a small business
- Having an executive compensation plan
- Large losses on investments
- High appreciation on investments
- Large % of marital estate
- Asset can't easily be sold



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Investments – Complexities and Concerns

- What are the clients' goals and needs?
- Value of the investments
- Taxes
  - Tax effecting with other assets
  - Future benefit of tax asset or liability
  - NIIT, Medicare and state surtaxes
- Transfer in kind or cash out
- Liquidity
- Going concern

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Investments – Approaches and Methodologies

- **How to determine the value of a business**
  - Back of the envelope
  - Valuation – 'lite'
  - Valuation – in-depth
- Methods – Market, Income and Asset values; multiples of revenue, earnings, etc.



- How to pay the other spouse for their marital share of the business
- How to protect the spouse receiving payments from a business
- Be careful not to double count the value of the business and the income to the owner for purposes of support

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Investments – Approaches and Methodologies

- **How to value deferred compensation and stock options**
  - Must get the company's benefit plan information and the employee's specific awards – **every plan is different!**
- Tax calculations for offsets of other assets
  - Future benefit of tax asset or liability
  - NIIT, Medicare and state surtaxes
- Approaches
  - Transfer in kind or cash out
  - Trading assets, using offsets
  - Wait until a certain time – in the money, vesting, etc.
- What is the nonmarital component?

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Investments – Approaches and Methodologies

RSU MARITAL PORTION CALCULATION

Date of Marriage	7/31/2010
ASSUME DATE OF DIVORCE (D.O.D.)	12/31/2021
AMAZON STOCK (AMZN) PRICE ON 8/31/2021:	$ 3,470.79 /SHARE
ASSUME A DISCOUNT RATE OF 2%/YEAR	

Award Date	Vesting Date	Potential Unrealized Value@$3,470.79	Shares	Total # of Mos. From Award to est. Date of Divorce	Total # of Mos. From Award to Vesting Date	Vested Portion % Prior to Date of Divorce	Vested Portion Prior to Date of Divorce - Shares	Vested Prior to Date of Divorce Potential Unrealized Value @$3,470.79	Vested After to Date of Divorce Potential Unrealized Value @$3,470.79	Total # of Mos. From 8/31/2021 to Vesting Date (B)	Potential Unrealized Present Value of Total Award @ 2% discount	Vested Prior to DOD - Potential Unrealized Present Value @ 2% discount	Vested After DOD - Potential Unrealized Present Value @ 2% discount
8/31/2020	7/15/2022	$ 90,240.54	26	16	22	72.73%	18.9091	$ 65,629.48	$ 24,611.06	10	$88,750.23	$64,545.62	$24,204.61
8/31/2020	1/15/2023	$ 118,006.86	34	16	28	57.14%	19.4286	$ 67,432.49	$ 50,574.37	16	$114,904.15	$65,659.51	$49,244.64
8/31/2020	7/15/2023	$ 121,477.65	35	16	34	47.06%	16.4706	$ 57,165.95	$ 64,311.70	22	$117,107.71	$55,109.51	$61,998.20
8/31/2020	1/15/2024	$ 118,006.86	34	16	40	40.00%	13.6000	$ 47,202.74	$ 70,804.12	28	$112,630.77	$45,052.31	$67,578.46
8/31/2020	7/15/2024	$ 121,477.65	35	16	46	34.78%	12.1739	$ 42,253.10	$ 79,224.55	34	$114,790.74	$39,927.21	$74,863.52
EST. TOTAL		**$ 569,209.56**	**164**				**80.5822**	**$ 279,683.77**	**$ 289,525.79**		**$ 548,183.60**	**$ 270,294.17**	**$ 277,889.43**

Pre-tax Amount Vested Prior to DOD Value @ $3,470.79/ Share Stock Price	**$ 279,683.77**
Less: Estimated Tax	**$ (90,617.54) (A)**
Post-tax Amount Vested Prior to DOD	**$ 189,066.23**

Present Value Calculation	
Pre-tax Amount Vested Prior to DOD Value @ $3,470.79/ Share Stock Price	**$ 270,294.17**
Less: Estimated Tax	**$ (87,575.31) (A)**
Post-tax Amount Vested Prior to DOD	**$ 182,718.86**

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Retirement Assets

- Often the largest asset in divorce
- Advantageous for long term financial planning
- Not all that meets the eye
  - Stop, Look, Listen
  - Take inventory of job history from 'the beginning'
  - Hidden benefits?

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Retirement Assets – Major Issues

- Nonmarital Component of Assets
- Pre-tax vs Post-Tax Assets (basis issues)
- Delays in asset division + market volatility
- Complex IRA Protection Structuring – **Don't do this, please**
- *Equalizing social security? (Recent issue)*

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Retirement Assets – Nonmarital Component

- Take high level view to determine ultimate impact to goals
- Cost/benefit
- Approaches (least to most time intensive):
  - Coverture (mostly for defined benefit)
  - Benchmarking
  - Weighting/Commingled Analysis
  - Tracing

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Retirement Assets – Pre-Tax vs Post-Tax

- Tax Regulations always changing
- Rule of Thumb – Mix is generally optimal
  - Tax benefits = grain of salt
- Needs and Plans of Spouses
  - Cash Needs, Legacy, Charitable
- Basis issue
- Approaches:
  - Work together to determine arbitrage opportunities
  - Prepare longer-term financial projections to understand impacts
  - Prepare hypothetical conversion analysis
  - Prepare draw down analysis



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Retirement Assets – Delays in Division of Retirement

- Issues when administrator involved and/or times of market volatility
- Example:
  - $1,000,000 Asset
    - Nicole is to receive $300,000
    - Administrator takes 45 days to effectuate and 30% market gain
    - Nicole lost out on $90,000 of appreciation
- Approaches:
  - Consider working based on percentages
  - *Partition accounts immediately if possible*
  - Stepped Division (i.e. Double Division)

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Retirement Assets – IRA Structuring/Protection

- A PSA for those out there
- While may not be intent to hide, should be aware that this is a unique/complex strategy becoming more common.
- Should raise an immediate flag if Self Directed IRA invested in private company (PE, LLC, etc)
- Don't be this person →



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How Do We Present and Discuss

- Presentation Options – What will help the clients **understand the issues** and **ask relevant questions** and **make informed decisions** for their future?
  - Side by Side
  - One asset class / QTBA at a time
  - Percentage Change in Asset(s)
  - $ Change in Asset(s)
  - Averages



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How Do We Present and Discuss

- Bringing in Additional Experts
  - Business Valuation Expert
  - Secondary Impartial/ Neutral Expert
  - Appraiser – Real estate, jewelry, art, etc.
  - Forensic CPA or Auditor
  - Actuary



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Other Assets

- Cemetery Plots
- Vehicles and Vessels
- Electronic Currencies
- Sporting Ticket Rights (PSL)
- Unclaimed asset search
- Metals – Gold, Silver
- Oil and Gas futures

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Wrap Up

- Remember, always keep an inquisitive mindset
- Go beyond identifying numbers, understand the overall impact
- You may need to go down several paths
- K.I.S.S. in initial discussions
- We are all on the same team
- Set your clients up for success post divorce
- **We are here to help you!**

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Come Join Us !



Sat - 9:00am to 10:30am

	Description	Forum Session CEUs	Presenters
Workshop #7 Maximizing the Magic of the Financial Neutral On the Collaborative Team	This workshop is focused on approaches in assisting the clients through financial uncertainty and impasse towards decision making and resolution. We will present concepts and techniques regarding division of assets, process costs, risk aversion, volatility, disruption and change in finances, and tools to help evaluate options and understand possible solutions.		Jane Ochsman Rowny Jamie Blum Jordan Egert

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Contact Us!



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Questions?



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