Tracing, Valuing, and Presenting Retirement Assets in Divorce Cases

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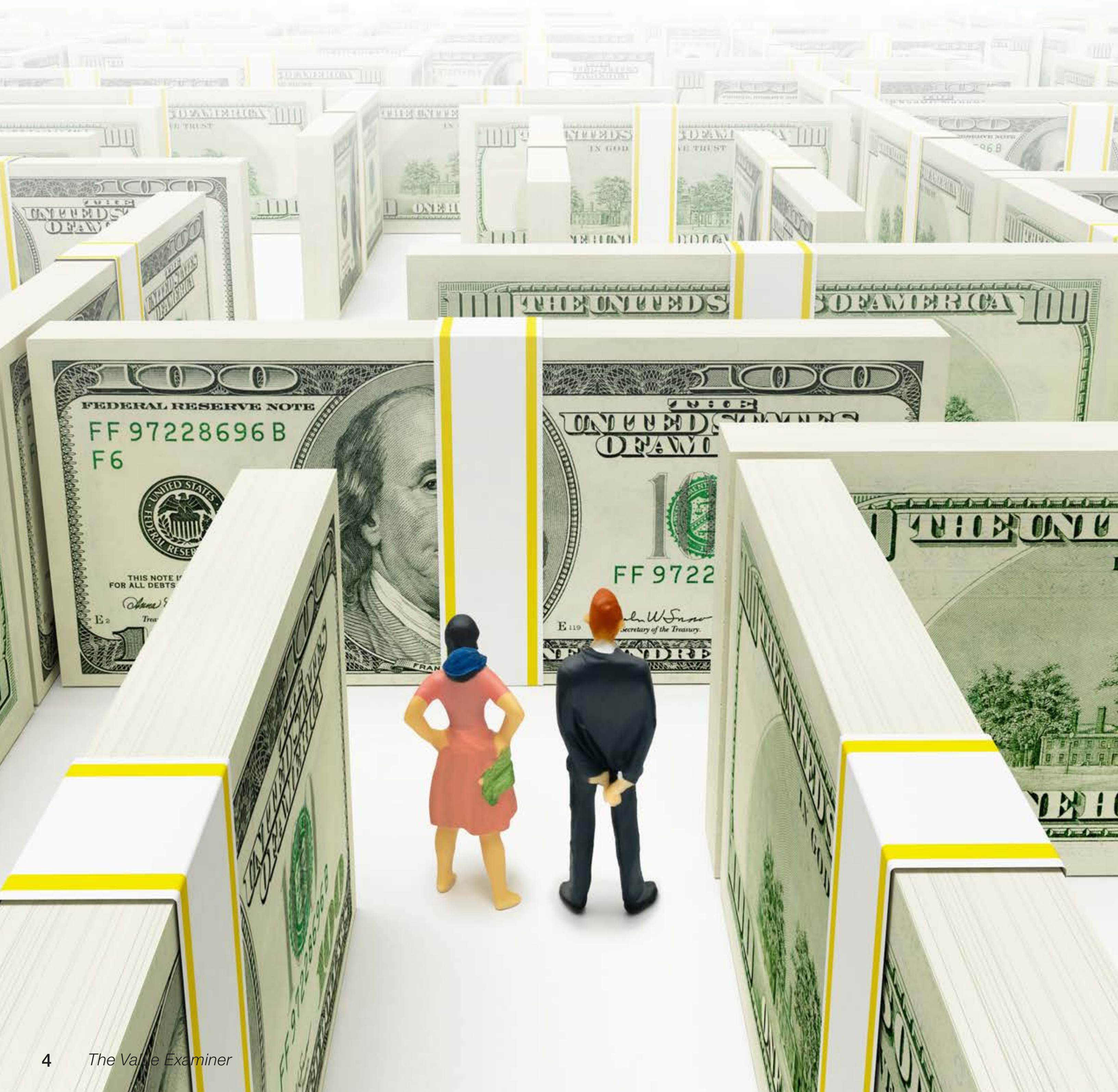

For most families, retirement assets are one of the largest assets on a marital balance sheet, especially for middle-aged and senior couples. Often, retirement accounts are established early in one's professional career. Couples are marrying later in life and working more years before getting married, concentrating on saving for their futures. This may lead to the accumulation of substantial retirement assets prior to marriage.

Fast forward to what happens when a couple decides to divorce. Those retirement assets, along with all the other property acquired by the couple during the course of their marriage, need to be analyzed and allocated between the spouses as part of the property settlement agreement or as determined by a court. A portion of a retirement asset may be the owner's nonmarital property (in other words, established, and contributed to, prior to the date of marriage) and a portion may be marital (contributions made after the date of marriage). This duality of character of retirement assets can lead to complexity and confusion.

It is the forensic accountant's job to assist the attorneys and judge by sorting through the retirement assets—accounts, statements, and transactions—to help determine how to split those assets between the parties based on the assets' specific character. This article focuses on tracing and valuing retirement assets and presenting to the court a forensic analysis regarding their character as marital, nonmarital, or both.

As a forensic accountant practicing in Illinois, I work under the theory that retirement assets receive special attention when it comes time to divide property in divorce proceedings. Depending on the facts and circumstances of each case, as well as the jurisdiction in which divorce proceedings occur, different theories and rules may apply. For purposes of this article, I am applying Illinois concepts, recognizing that procedures and proceedings may be different in other states. In some cases, other experts (such as business valuators, salary experts, or financial advisors) may be needed to provide additional insights.

Defining Retirement Assets

Retirement assets come in many forms but generally fall into two categories: defined benefit plans and defined contribution plans. A defined benefit plan, "commonly known as a traditional pension plan—provides a specified payment amount in retirement."[1] A defined contribution plan "allows employees to invest pre-tax dollars in the capital markets, where they can grow tax-deferred until retirement."[2] The most common types of defined contribution plans are 401(k),[3] 403(b),[4] 457,[5] and profit-sharing plans.[6] Defined contribution plans also include traditional individual retirement accounts (IRAs), Roth IRAs, and Simplified Employee Pension (SEP) plans. In addition to traditional retirement plans, individuals may also elect to participate in deferred compensation plans.[7]

While there is some overlap in the analysis of both types of retirement assets, defined benefit plans have been on a decline over the last 25 years due to government regulation (which favors defined contribution plans), shifts in employment sectors (from manufacturing to information technology, which has largely adopted defined contribution plans), and worker demand (defined contribution plans are generally portable if one switches employers).[8] Therefore, this article focuses on defined contribution plans.

1 *Investopedia*, under "Defined-Benefit vs. Defined-Contribution Plans: What's the Difference?," updated August 7, 2024, https://www.investopedia.com/ask/answers/032415/how-does-defined-benefit-pension-plan-differ-defined-contribution-plan.asp.

2 *Investopedia*, under "What Are Defined Contribution Plans, and How Do They Work?," updated November 9, 2024, https://www.investopedia.com/terms/d/definedcontributionplan.asp.

3 "A 401(k) plan is a company-sponsored retirement account in which employees can contribute a percentage of their income. Employers often offer to match at least some of these contributions." *Investopedia*, under "401(k) Plans: What Are They, How They Work," updated January 24, 2025," https://www.investopedia.com/terms/1/401kplan.asp.

4 "A 403(b) plan refers to a retirement account designed for certain employees of public schools and other tax-exempt organizations. Participants may include teachers, school administrators, professors, government employees, nurses, doctors, and librarians. The 403(b) plan, which is closely related to the better-known 401(k) plan, allows participants to save money for retirement through payroll deductions while enjoying certain tax benefits. There's also an option for the employer to match part of the employee's contribution." *Investopedia*, under "What is a 403(b) Tax-Sheltered Annuity Plan?," updated July 11, 2024, https://www.investopedia.com/terms/1/403bplan.asp.

5 "A 457 plan is a tax-advantaged retirement savings plan offered to employees of many state and local governments and some nonprofit organizations. Like the better-known 401(k) plan in the private sector, the 457 plan allows employees to deposit a portion of their pre-tax earnings in an account, reducing their income taxes for the year while postponing the taxes due until the money is withdrawn after they retire." *Investopedia*, under "What is a 457 Plan?," updated October 22, 2024, https://www.investopedia.com/terms/1/457plan.asp.

6 "A profit-sharing plan is a retirement plan that gives employees a share in the profits of a company." *Investopedia*, under "Profit-Sharing Plan: What It Is and How It Works, with Examples," updated May 22, 2024, https://www.investopedia.com/terms/p/profitsharingplan.asp.

7 "Deferred compensation is simply a plan in which an employee delays accepting part of their compensation until a specified future date. … Deferred compensation funds are set aside and can earn a return on investment until paid out to the employee. At the time of the deferral, the employee pays Social Security and Medicare taxes on the deferred income … but doesn't have to pay income tax on the deferred compensation until the funds are received. Highly-compensated executives who don't need their annual compensation to live on and are looking to reduce their tax burden most commonly use deferred compensation plans (non-qualified deferred compensation plans)." *Investopedia*, under "Deferred Compensation vs. 401(k)s: What's the Difference?," updated September 9, 2024, https://www.investopedia.com/articles/personal-finance/102715/deferred-compensation-plans-vs-401ks.asp.

8 Barbara A. Butrica, Howard M. Iams, Karen E. Smith, and Eric J. Toder, "The Disappearing Defined Benefit Pension and Its Potential Impact on the Retirement Incomes of Baby Boomers, *Social Security Bulletin* 69, no. 3 (October 2009), https://www.ssa.gov/policy/docs/ssb/v69n3/v69n3p1.html#:~:text=The%20percentage%20of%20workers%20covered,over%20the%20past%2025%20years.

Statutes, Rules, and Other Items to Consider

There is little debate that retirement assets—defined contribution plans in particular—can have both marital and nonmarital characteristics based on the nature of the savings vehicle, state statutes, and case law. Categorizing those assets as either marital or nonmarital, however, can be a challenge. For the forensic accountant, there are several generally accepted rules and methodologies that can be used to categorize each portion of the account. Before diving into the "how to" from a forensic accounting and financial analysis perspective, it is helpful to review the basics to develop a baseline understanding of dividing retirement assets.

Community Property States Versus Equitable Distribution States

Once the types of retirement assets to be analyzed and potentially divided are determined, the forensic accountant needs to understand the applicable statutory framework for the jurisdiction where the divorce proceeding was filed. States are categorized as either community property[9] or equitable distribution states.[10] It is important to know the state in which the divorce matter takes place in order to understand the applicable rules for division of retirement assets acquired during the marriage. For purposes of this article, I am focusing on engagements in equitable property states (in which equitable does not always mean split 50/50). However, the specific tracing procedures discussed below should be useful to tracing experts in all states.

Prenuptial Agreements

It is important to determine whether the litigating spouses have a prenuptial agreement. If they do, any provisions regarding the nonmarital estate and the creation of marital property should be considered and may be binding on the parties. It is my understanding that if the prenuptial agreement is challenged by one party and is ultimately determined by a court to be valid, the agreement will take precedence over any state statutes regarding the creation and distribution of marital property.

Illinois Marriage and Dissolution of Marriage Act (IMDMA)

In Illinois,[11] the prevailing statute recognizes that retirement assets may have both marital and nonmarital characteristics:[12]

> For purposes of distribution of property pursuant to this Section, all pension benefits (including pension benefits under the Illinois Pension Code, defined benefit plans, defined contribution plans and accounts, individual retirement accounts, and non-qualified plans) acquired by or participated in by either spouse after the marriage and before a judgment of dissolution of marriage or legal separation or declaration of invalidity of the marriage are presumed to be marital property. A spouse may overcome the presumption that these pension benefits are marital property by showing through clear and convincing evidence that the pension benefits were acquired by a method listed in subsection (a) of this Section. The right to a division of pension benefits in just proportions under this Section is enforceable under Section 1-119 of the Illinois Pension Code.
>
> The value of pension benefits in a retirement system subject to the Illinois Pension Code shall be determined in accordance with the valuation procedures established by the retirement system.[13]

The forensic accountant should consider applying tracing methodologies, with clear and convincing evidence, demonstrating when retirement assets were acquired, when contributions to the assets were made, and the growth attributable to those contributions (discussed in detail below) to determine whether retirement assets have a nonmarital component.

Tax Rules

It is critical to understand the tax implications of various retirement assets. The forensic accountant should consider, for example, the ability to split one account into two,[14] any tax penalties for rollovers or withdrawals, and future taxes owed on income or withdrawals when taken at the appropriate retirement age. There may also be differences

9 In these states, spouses are considered joint owners of nearly every asset and liability acquired during a marriage. Currently, the community property states are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.

10 All states not listed above as community property states are equitable distribution states. In these states, the court determines the division of assets based on the situation and the parties' needs, often analyzing a variety of factors. Note: The District of Columbia and Puerto Rico are also equitable distribution jurisdictions.

11 Depending on where the marital dissolution case is filed, different state statutes may apply. It is important for the forensic accountant to discuss these statutes with retaining counsel.

12 750 ILCS 5/503(a)(6).

13 750 ILCS 5/503(b)(1).

14 "If a plan participant gets divorced, his or her ex-spouse may become entitled to a portion of the participant's retirement account balance. Depending on the type of plan and the amount of benefits, the ex-spouse may have immediate access to his or her portion of those assets or at some point in the future (usually upon the participant's retirement or death). Most plans require an ex-spouse to file a qualified domestic relations order (QDRO) with the plan administrator before the plan can pay any portion of a participant's retirement plan benefits to that ex-spouse." IRS, Retirement Topics—Divorce, last updated July 22, 2024, https://www.irs.gov/retirement-plans/plan-participant-employee/retirement-topics-divorce.

between federal and state income tax liabilities once the funds are withdrawn or paid out. For example, in Illinois, 401(k), IRA, and pension plan distributions are not included as taxable income to the beneficiary, assuming that the retirement age requirements have been met.[15]

It is also important to determine whether a retirement asset requires a qualified domestic relations order (QDRO). A QDRO is "a domestic relations order that creates or recognizes the existence of an 'alternate payee's' right to receive, or assigns to an alternate payee the right to receive, all or a portion of the benefits payable with respect to a participant under a retirement plan, and that includes certain information and meets certain other requirements."[16]

This article does not address tax considerations related to the division of retirement assets (including the establishment of QDROs).

Other Items to Consider Before Getting Started

The forensic accountant should become familiar with the types of retirement assets held, the nature and types of investments held within those retirement accounts, the amount of account documentation available, and the value of the accounts. This information should be addressed with the litigating spouse and his or her attorney early in the engagement in order to plan procedures and methodologies for reaching final values and opinions.[17]

How the Forensic Accountant Can Help the Court

After determining the nature and extent of the retirement assets to be traced and valued, the forensic accountant should prepare a timeline or flow chart to show when and how the current retirement assets were established. For example, there may be a single account that has never changed or there may have been multiple rollovers and consolidations of accounts over time. The timeline or flow chart should help answer the following questions:

1. When was the retirement asset established?

If the first contribution into a retirement asset was after the date of marriage, then, depending on the facts and circumstances, the asset will likely be considered marital property subject to division between the parties and, therefore, the tracing of the asset will end there. There are some exceptions to the general rule that retirement assets acquired after the date of marriage are marital property subject to division. These include: (1) inherited retirement accounts, if contributions into the account came from sources that qualify as separate (nonmarital) property, and (2) retirement assets characterized as one party's nonmarital property under a prenuptial or postnuptial agreement. If either of these exceptions apply to any portion of a retirement asset, further analysis should be performed.

15 Other states that are tax friendly when it comes to retirement benefit income include Alaska, Florida, Iowa, Mississippi, Nevada, New Hampshire, Pennsylvania, South Dakota, Tennessee, Texas, Washington, and Wyoming (assuming the taxpayer meets age and other requirements). Kate Schubel, "States That Won't Tax Your Retirement Income in 2025," *Kiplinger*, February 2, 2025, https://www.kiplinger.com/retirement/601818/states-that-wont-tax-your-retirement-income.

16 "FAQs About Qualified Domestic Relations Orders," U.S. Department of Labor, Employee Benefits Security Administration, accessed December 27, 2024, https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/faq-qualified-domestic-relations-orders.pdf.

17 In some cases, forensic accountants are jointly hired as neutrals by the litigating spouses. In those cases, extra care should be taken to communicate with each spouse's legal counsel.

If a retirement asset was established prior to the date of marriage (or falls under one of the exceptions noted above), the asset may have characteristics of both marital and nonmarital property.

2. How was the retirement asset funded?
Depending on the type of retirement asset, funding may come from salary deferrals, employer contributions, or after-tax dollars from personal accounts. Generally, salary deferrals and employer contributions will be considered marital contributions for any period that occurs after the date of marriage. After-tax contributions to Roth IRAs or traditional IRAs may be considered separate (nonmarital) property or marital property, depending on the facts and circumstances. Through the tracing process, the forensic accountant will need to identify the source of the contributions, providing this information to the court to assist the court in its characterization of the retirement asset as marital or nonmarital property.

3. When was the retirement asset funded?
The type of retirement asset may indicate how and when contributions were made. For instance, if a party participates in an employer-sponsored plan, contributions typically include consistent, periodic deferrals matching the frequency of salary payments. For non-employer-sponsored plans, which are typically voluntary, there may not be consistent periodic contributions.

Once a retirement asset has been identified, it is important for the forensic accountant to determine the timing of contributions to the asset. Specifically, the accountant should determine (1) whether contributions were made pre- or post-date of marriage and (2) the frequency of any additional contributions (as it relates to the determination of pro rata income and returns on the retirement asset).

4. What information is available?
The amount of documentation available to trace retirement assets varies from case to case. Ideally, to establish that a retirement asset was acquired prior to the date of marriage, there should be account statements from the third-party plan administrator, as well as plan enrollment forms or similar documentation, dated prior to marriage. The forensic accountant should determine a beginning value for the retirement asset to be traced, which is typically the last known balance from an account statement just prior to the date of marriage. For example, if the litigating spouses were married on October 15, 2004, the third quarter or September 30, 2004, account statement balance would be a reasonable starting point.

Depending on the type of retirement asset, funding may come from salary deferrals, employer contributions, or after-tax dollars from personal accounts.

Once establishment of the retirement asset is documented, additional documentation will be necessary to trace subsequent contributions, income and returns, withdrawals, and other account activity. To begin the tracing analysis of retirement assets, the forensic accountant should ask retaining counsel or the litigating spouse to provide the following items:

- Account statements dating back to just prior to the date of marriage (or, if later, opening of the account) and running through the current date (or, if earlier, closing of the account)
- Account applications and beneficiary information
- Income tax returns
- Form W-2 wage and tax statements
- Copies of canceled checks for contributions made during the marriage[18]
- If a contribution is a gift, support for that gift (e.g., copy of canceled check, gift tax return, correspondence regarding the gift)
- Copies of canceled checks for rollover funds
- Plan documents, including descriptions and definitions of relevant terms, matching, and vesting limitations
- Asset allocation or investment philosophies/strategies

In some cases, particularly those involving long-term marriages, account statements for dates prior to the marriage may no longer be available.[19] In my experience, when such documentation is unavailable, other sources are necessary to support a beginning balance. These alternative sources may include analyses aggregating amounts disclosed on W-2 forms (which include amounts contributed to a qualified plan), income tax returns listing annual contributions, or even bank account statements with cancelled checks or wire transfers reflecting contributions made. Some spouses even maintain their own ledgers—either handwritten or using a program such as Quicken—which may be considered by the forensic accountant.

In recent years, forensic accountants have encountered limitations on available documents as a result of financial institutions' document retention policies. Often, bank account statements are available only for the last five to seven years, making it difficult to establish a beginning balance for retirement assets in cases involving long-term marriages. In these situations, it is important to understand the nature of the retirement assets, the patterns and practices of contributions, and overall investment strategies and philosophies of the account holder, as the forensic accountant will have to make and disclose certain assumptions to fill document gaps.

Specifics of Tracing and Valuing Retirement Funds in an Illinois Divorce

1. Obtain an understanding of the application of relevant statutes/case law

The forensic accountant should discuss with the retaining spouse and his or her legal counsel the applicable statutes for tracing and valuing the marital and nonmarital portions of the retirement assets. Before starting any calculations, the accountant should obtain information regarding any special circumstances, such as prenuptial agreements that define marital and nonmarital assets, retirement plans funded by gifts, or employee contracts that impact retirement savings. Once this information or documentation is obtained and reviewed, the forensic accountant can begin the tracing and valuation process.

2. Obtain an understanding of the types of accounts, contributions made, and withdrawals taken

Contributions to a retirement account are dependent on the type of retirement asset. If contributions are salary deferrals

18 If the contribution was made during the marriage but allegedly from a nonmarital source, the forensic accountant should also request all the corresponding account statements from inception or a date prior to the date of marriage through the dates the contributions were made for the account from which the payment was made.

19 My recent experience is that banks are no longer responding to subpoena requests for documents older than seven years due to document retention policies.

or matching employer contributions, their character depends solely on when they were made: that is, before or after the date of marriage. Non-employer-sponsored plans are typically funded with after-tax contributions from a checking or similar account. Whether these contributions are marital or nonmarital depends on their source, the account itself, the account's holder or title, and the nature or character of the funds held in the account.

For example, in one of my engagements, the wife's parents created and fully funded a trust account naming the wife (their daughter) as the sole beneficiary. Beginning two years prior to the date of marriage and continuing throughout the duration of the marriage, funds from the trust account were used to fund annual contributions into the wife's IRA. Based on these facts, the contributions made, and therefore the IRA as a whole, could be considered the wife's nonmarital property. On the other hand, if annual contributions into an IRA came from a jointly titled bank account (or even an individually titled account funded with salary earned during the marriage), the contributions and, therefore, the account (or at least a portion of it)[20] could be considered marital property.[21]

The facts and circumstances surrounding the contributions to retirement assets assist the forensic accountant in determining the nature of those contributions and calculating the marital and nonmarital portions of the retirement asset. It is the court's role to determine the ultimate character of the retirement assets. The forensic accountant solely follows statutory guidelines and professional standards in preparing calculations and providing information to assist the court in making this determination. In practice, the forensic accountant attributes portions of an account to periods of time before and after a given date (typically the date of marriage), while the trier of fact classifies those portions as "marital" and "nonmarital." In that way, the forensic accountant assists the factfinder without invading the province of the factfinder.

3. Period to base analysis

The documentation used to trace and value retirement accounts consists primarily of the account statements for each individual retirement asset. Generally, a more accurate analysis is possible when the forensic accountant analyzes investment returns and bifurcates the account (into marital and nonmarital portions) on an individual holding basis—that is, based on the individual equity holdings, mutual funds, etc.—for each month. If monthly information is not available, the forensic accountant can use quarterly or annual investment returns and balances to bifurcate the retirement account. In some cases, if the funds do not increase substantially over short periods of time or contributions (and withdrawals) are infrequent, quarterly or annual analysis may be sufficient. The time periods used in the tracing and valuation of the retirement account will be determined by the nature of the account/funds, documents available, and the length of the parties' marriage.

4. Prepare the tracing and valuation analysis

At this stage in the tracing process, the forensic accountant should have an understanding of the applicable laws, the types of retirement assets at issue, and the details regarding establishment and funding of the assets to be analyzed. Documentation has been collected and now the valuation analysis can begin.

The forensic accountant's role is to analyze a retirement asset and bifurcate the account into its values attributed to the period prior to the date of marriage ("pre-DOM") and the period after the date of marriage ("post-DOM"). The beginning balance is the value of the account as close as possible to (but prior to) the date of marriage. Often, statements are provided on a monthly or quarterly basis and, therefore, the last month or quarter immediately preceding the date of marriage will be the starting point. If contributions were made into the account between the date of the last known pre-DOM balance and the date of marriage, the forensic accountant will need to determine the amount of those contributions and attribute the additional funds to the pre-DOM balance.

The forensic accountant should analyze each subsequent period of time after the date of marriage to further split the retirement asset into pre-DOM and post-DOM values (based on the nature of the accounts, investment holdings, and documents available, among other factors). Actual returns, contributions, and withdrawals should be used to roll the balance in the account from the date of marriage (the beginning balance) through each period up to the closure of the account or its current balance. Tables 1–3 illustrate how this analysis might look, depending on the level of detail or documents available, and the activity in the account.

20 If, in this scenario, there was a balance in the IRA prior to the date of marriage or other contributions that could be traced to nonmarital sources, only the marital contributions and related income earned on those contributions should be considered marital.

21 The litigating spouses reached a settlement agreement that all contributions into the wife's IRA should be considered her separate, nonmarital property.

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Table 1: Limited Information Outside of Contributions Made Pre-DOM and the Current Balance

	Total	Nonmarital	Marital
Contributions	$67,281	$16,252	$51,029
Percentage		24.2%	75.8%
Current Balance	$283,268	$68,551	$214,717

Table 2: Enough Detail to Roll Account Forward Annually (date of marriage October 16, 2015)

Date	Beginning Balance	Contributions	Investment Income	Ending Balance	Rate of Return	Nonmarital Balance	Marital Balance
06/15/15				$133,962		$133,962	
12/31/15	$133,962		$8,861	$142,823	6.61%	$142,823	
12/31/16	$142,823	$5,500	$16,321	$164,644	11.00%	$158,539	$6,105
12/31/17	$164,644	$5,500	$5,919	$176,063	3.48%	$164,054	$12,009
12/31/18	$176,063	$5,500	$16,829	$198,392	9.27%	$179,260	$19,132
12/31/19	$198,392	$6,000	$4,863	$209,255	2.38%	$183,525	$25,730
12/31/20	$209,255		($35,217)	$174,038	-16.83%	$152,638	$21,400
12/31/21	$174,038		($2,135)	$171,903	-1.23%	$150,766	$21,137
12/31/22	$171,903		$13,245	$185,148	7.70%	$162,382	$22,766

Table 3: Full Collection of Documents, Limited Holdings, Tracing by Specific Activity (date of marriage October 16, 2015)

Transaction	Symbol	Transaction Date	Date if Sold	Transaction Shares	Cumulative Shares	Number of Shares				
						Nonmarital	Cumulative Nonmarital	Nonmarital Reinv Ratio	Marital	Cumulative Marital
Contribution	FCNTX	04/15/14		66.203	66.203	66.203	66.203	1.000		
Contribution	FCNTX	04/15/15		64.676	130.879	64.676	130.879	1.000		
Dividend	FCNTX	12/22/15			130.879		130.879	1.000		
Contribution	FCNTX	01/12/16	01/02/20	13.441	144.320		130.879	0.907	13.441	13.441
Dividend	FCNTX	02/02/16	01/02/20		144.320		130.879	0.907		13.441
Dividend	FCNTX	02/02/16	01/02/20		144.320		130.879	0.907		13.441
Contribution	FCNTX	02/07/16	01/02/20	40.312	184.632		130.879	0.709	40.312	53.753
Dividend	FCNTX	12/20/16	06/09/21		184.632		130.879	0.709		53.753
Dividend	FCNTX	12/21/17	06/09/21		184.632		130.879	0.709		53.753
Dividend	FCNTX	12/20/18	06/09/21		184.632		130.879	0.709		53.753

It is important to understand that the "value" as it relates to these accounts consists of the published publicly traded value as of a certain date, usually as indicated on an account statement. The forensic accountant is not independently calculating or determining a new value by applying standard or "business" valuation methodologies to determine a new value. Rather, the forensic accountant is taking the given value[22] as of a certain date, as determined by the financial markets or reported on the client's account statement, and dividing it into two parts, namely (1) the value of the account pre-DOM and (2) the value of the account post-DOM.

5. Prepare alternative scenarios to test your methodology

Often, there is more than one way to get to the same place. In this case, a second, "back of the envelope" proof can help forensic accountants determine if their analysis is reasonable.[23] For example, assuming the total pre-DOM and post-DOM contributions and ending balances are known, one might estimate the nonmarital balance as shown in Table 4.

Table 4: Alternative Scenario Example 1

	Nonmarital	Marital	Total
Contributions	$133,962	$22,500	$156,462
Percentage of total contributions	85.6%	14.4%	
Ending balance	$185,148		
x percentage of nonmarital contributions	x 85.6%		
Ending nonmarital balance	**$158,523**		

As another example, if the pre-DOM balance is known, in addition to an estimated average annual rate of return and the number of years to the current balance, one can estimate the pre-DOM portion as shown in Table 5.

Table 5: Alternative Scenario Example 2

	Nonmarital
Contributions	$133,962
Estimated average annual rate of return	3.00%
Estimated annual returns	$4,019
Number of years	x 8
8 years of returns	$32,151
Contributions + 8 years of returns	$166,113

As the calculations above indicate, the forensic accountant can approximate the pre-DOM account balance based on the contributions made prior to the marriage, as compared to the total contributions made into the account. This calculation is a good "sanity check" for reasonableness of the balances calculated.

Conclusion

With the right level of planning and preparation, as set forth above, the tracing and valuation of retirements assets by a forensic accountant in divorce proceedings can be performed to a reasonable degree of accounting certainty, and in a manner that allows the court to allocate these assets between the parties. The forensic accountant will have provided the court sufficient relevant evidential material supported by documentation and reasonable assumptions to make a final adjudication. VE

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22 Value could include fair value, fair market value, net asset value, or historical cost.

23 If information is available, calculations such as these are useful as a reasonableness check but should not replace an in-depth analysis.