Who holds onto the family business when couples divorce?

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When Kassy Perry got divorced, she had to cut a check for $800,000 to buy out her now ex-husband from her thriving public relations business.

The California-based business was considered community property.

"In fact, the court would not allow me to just shut it down," Perry says.

Perry is far from alone in experiencing the complications that arise when business is entangled in an unraveling marriage.

An estimated 3.7 million businesses in the U.S. are jointly owned by a husband and wife, according to the U.S. Census Bureau. The particular roles spouses hold within a business can determine the course of action a parting couple must take. "Depending on the type of business and just how much one spouse is involved compared to the other may determine if the business will survive the marriage," says Lori Barkus, a South Florida-based family law attorney. "For example, if one half of the couple is a dentist or doctor and the other half runs the office, then the office manager function can be outsourced. On the other hand, if both the husband and wife are medical professionals who run a practice together, then there's a good chance that the business will have to be split."

For example, Lou Altman, who is now the CEO of GlobaFone, was on the receiving end of the buyout of a daycare center he and his ex-wife had jointly owned.

"When we settled, she bought me out," Altman says. "As was to be expected, there was a difference of opinion on the value and how much I was to receive."

For Altman, it was irrelevant, because he put the money into their children's college funds.

"Just as a couple may have a 'pre-nup,' they also need a 'business pre-nup,'" says financial planner Frank Jaffe. "The biggest challenge facing business partner couples contemplating divorce is the reality that more often than not, running the business together post-divorce is not a viable option." Jaffe says. It's important to establish a game plan in advance of when a couple heads for splitsville. "An agreement needs to be reached that will enable both the remaining spouse/business owner, and the departing partner who has been bought out, to support themselves and fund their retirement," Jaffe said. "Since the earning power of the business with one remaining partner is difficult to calculate, a flexible buyout formula, based on financial performance going forward, needs to be considered." Jaffe says that agreeing on a buyout price is the biggest obstacle, if a pre-divorce agreement has not been signed. That's where valuation comes into play.

"The best way to handle joint ownership of a business [split when couples break up] is to have it valued, then the spouse who wants to continue operating it can buy out the other spouse's interest," says Rosemary Frank, a certified divorce financial analyst. "The buyout can be accomplished by exchanging the non-operator's business value for other marital assets. If there are insufficient other assets then buyout payments can be structured over time."

"Selling the business outright, and splitting the proceeds, may work as a last resort if no breakup agreement can be settled upon," Jaffe says.

For those couples who are not yet married, prevention is key.

"A well-drafted prenuptial agreement can help to avoid many problems that can arise," says Barkus. "You also should consider a shareholder agreement," Barkus says. "Such documents can help to avoid lengthy court battles, which, in many cases, can bankrupt a company, leaving both parties with nothing," she says.

Barkus recommends never mixing personal and business assets, because "then the business could be considered marital property," she says.