
- New York Equitable Distribution Definitions FAQ's -

1. When is a Disposition of Marital Property available?

A distribution of Marital Property is available, where it is not disposed of by a matrimonial agreement, in an action where all or part of the relief granted is:

- **Divorce**
 - **Dissolution**
 - **Annulment**
 - **Declaration of nullity**
 - **and in a Proceeding to obtain a distribution of marital property following a foreign divorce.**
- 2. What is the Court required to do?**
- **The court is required to determine the respective rights of the parties in separate and marital property and provide for disposition of such property in the final judgment.**
- 3. How is property to be distributed?**
- - **Separate property remains separate;**
 - **Marital property must be distributed equitably between the parties, considering the circumstances of the case and of the respective parties.**
- 4. What is Marital Property?**

Marital property is all property acquired by either or both parties:

- **During the marriage;**
 - **Before execution of a separation agreement;**
 - **Before commencement of a matrimonial action;**
 - **Regardless of the form in which its title is held.**
- 5. Are there any exceptions to the definition of Marital Property?**

Yes, it

- **Does not include property provided for in a written agreement;**
- **Does not include separate property.**

6. What is "Separate Property"?

Separate property is :

- **Property acquired before marriage;**
 - **Property acquired by bequest, devise, descent or gift from a party other than the spouse;**
 - **Compensation for personal injuries;**
 - **Property acquired in exchange for or the increase in value of separate property;**
 - **Property described as separate property pursuant to written agreement of the parties;**
7. **Are there any exceptions to the definition of separate property?**
- **Yes there is an exception for the increase in the value of separate property (or property acquired in exchange for separate property), to the extent that the appreciation is due in part to the contributions or efforts of the other spouse.**
8. **What is a Distributive Award?**

A distributive award is payments:

- **Provided for in a valid agreement between the parties; or**
 - **Awarded by the Court; or**
 - **In lieu of or to supplement of facilitate or effectuate the division or distribution of property in a matrimonial action;**
 - **Payable to either party;**
 - **In a lump sum or over a period of time in fixed amounts;**
9. **Are there any exceptions to the definition of a Distributive Award?**
- **Yes, it does not include payments which are treated as ordinary income under the Internal Revenue Code.**