

Gray Divorce & 2nd Marriages

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FINANCIAL EXPERTS
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Family Law Financial Basics: What Every Wealth
Manager Should Know
Special Focus: Gray Divorce

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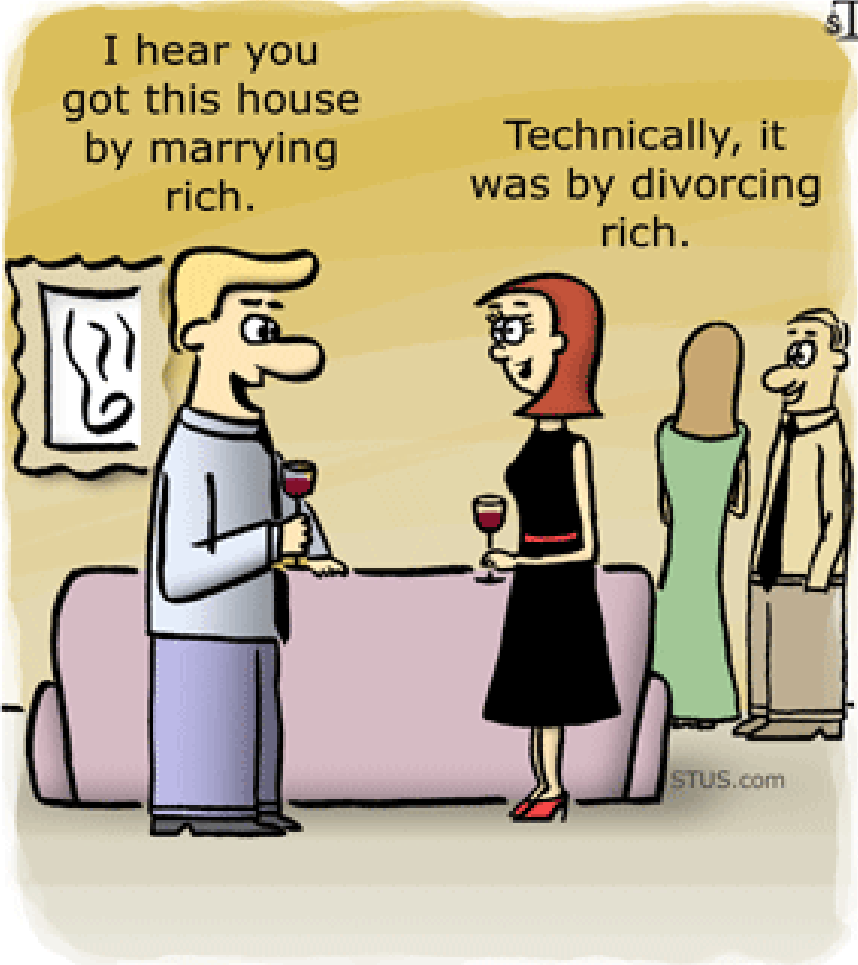
Questions Answered for Wealth Managers

- What makes Gray Divorce different
- How do I advise my clients to protect their property in the event of divorce?
- Why should I recommend a prenuptial or postnuptial agreement?

Divorce Financial Basics

Stu's Views

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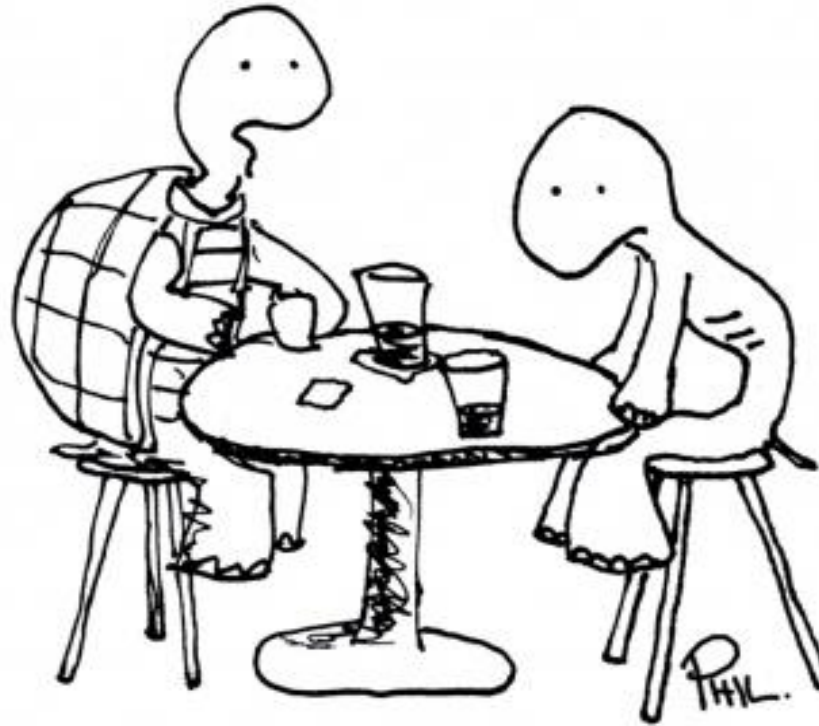
Overview

- Divorce Financial Basics
 - Temporary support
 - Equitable Division
 - Alimony
- Spousal Elective Share in Estate
- Prenuptial and Postnuptial Agreements

Temporary Support

- Support that is awarded after parties separate but before the divorce is final
- *Gray Divorce consideration*: Are there pensions in pay status? Do we treat that as income or an asset?

Equitable Division



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*“Cheer up, buddy! She might have got the house...
but she can never take away your dignity!”*

Marital vs. Separate Property Basics

Marital Property is any property earned during the marriage either by a party's work *or by the appreciation of marital or separate assets (in some states such as Pennsylvania)*.

Separate Property is any property that was premarital or gifted or inherited during the marriage that. Includes appreciation in some states such a Georgia

Equitable Distribution v. Community Property

- Division of Martial Property only. Each party keeps separate property
 - Equitable Distribution = FAIR distribution
 - Community Property = Equal distribution
-
- The only states that are Community Property:
 - Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin
 - All others are Equitable Distribution

Important Property Nuances

- **“Commingled” property is often deemed marital.**
- **The transfer of a separate account or other asset into joint names often transmutes the property into marital property.**
- **Retirements assets can be transferred tax free with a (Qualified) Domestic Relations Order.**

Alimony

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"You have to ask yourself the tough questions before marriage, like, 'Is THIS the man I'll want to sue for alimony in five years?'"

Alimony: Length and Amount

- Varies heavily by state. Generally, the law provides no specific guidance (formula) as to the length of alimony or the amount.
- Considerations include length of marriage, earning capacity, reasonable needs.

Gray Divorce Considerations

- Ages of the parties
- Health of the parties
- Whether they are still working
- Retirement assets (pensions in pay status?)
- Home equity vs. liquid assets
- Social Security
- Children in college

Spousal Elective Share in Estate

Stu's Views

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Spousal Elective Share in Estate

Varies by State. For example, when a married person domiciled in Pennsylvania dies, his surviving spouse has a right to an elective share of one-third of their estate absent a spousal waiver signed by the surviving spouse.

Gray Divorce Considerations: Spousal benefits on pension, beneficiaries on retirement accounts

Prenuptial and Postnuptial Agreements



“Hugh, you know leaving the toilet seat up violates our prenuptial agreement.”

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Prenuptial and Postnuptial Agreements

- Rewrite the law for the parties' divorce case and/or disposition of assets in the event of a party's death;
- Can include a spousal waiver of the right to inherit;
- Can reduce the separation period to 90 days;
- Address financial issues only—i.e. cannot address custody
- Protect the appreciation of separate property;
- Protect business interests;
- Can include a waiver or limitation alimony;
- Can determine attorney fee issues; and
- Can be used to prove separate property.

Prenuptial vs. Postnuptial Agreements

Prenuptial Agreements are signed before the date of marriage and Postnuptial Agreements are signed after the date of marriage.

When We Most Often Draft Prenuptial Agreements

- Common with second marriages when one or both parties have children (often “Gray marriage”);
- Large inequity in income or assets;
- One or both parties stand to inherit wealth;
- Interests in family-owned business;
- Both parties want to keep their assets and income separate; and
- Parties desire to avoid messy and long divorce.

Postnuptial Agreements often arise

- After marital misconduct or other threat of divorce (also called Reconciliation Agreement);
- Parties intended to have a Prenuptial Agreement but ran out of time; or
- After an inheritance or receiving an interest in a family-owned business.

How to Bring Up the Subject

- Routine part of advising clients to protect their assets, analogous to advising them to buy life insurance;
- Emphasize that it is not a judgment about their marriage or relationship;
- Explain that it can be tailored to protect only certain assets or income streams, can be mutually beneficial.



Knowledge Check

The appreciation of premarital property during the marriage is a marital asset:

- 1) True
- 2) False
- 3) Depends on the state

7 Critical Gray Divorce Financial Issues:

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- ▶ Post Divorce Budget
 - ▶ Asset Values
 - ▶ Social Security
 - ▶ Insurance
 - ▶ Pension/Retirement Plans
 - ▶ College expenses
 - ▶ Estate Planning



PERSONAL INFORMATION

David and Betty Anderson

Married 9/12/1982

Separated 5/13/2020

David – age 66 employed and will work till 68

Betty – age 64 employed and will work till 66

Three adult children – do not need financial aid

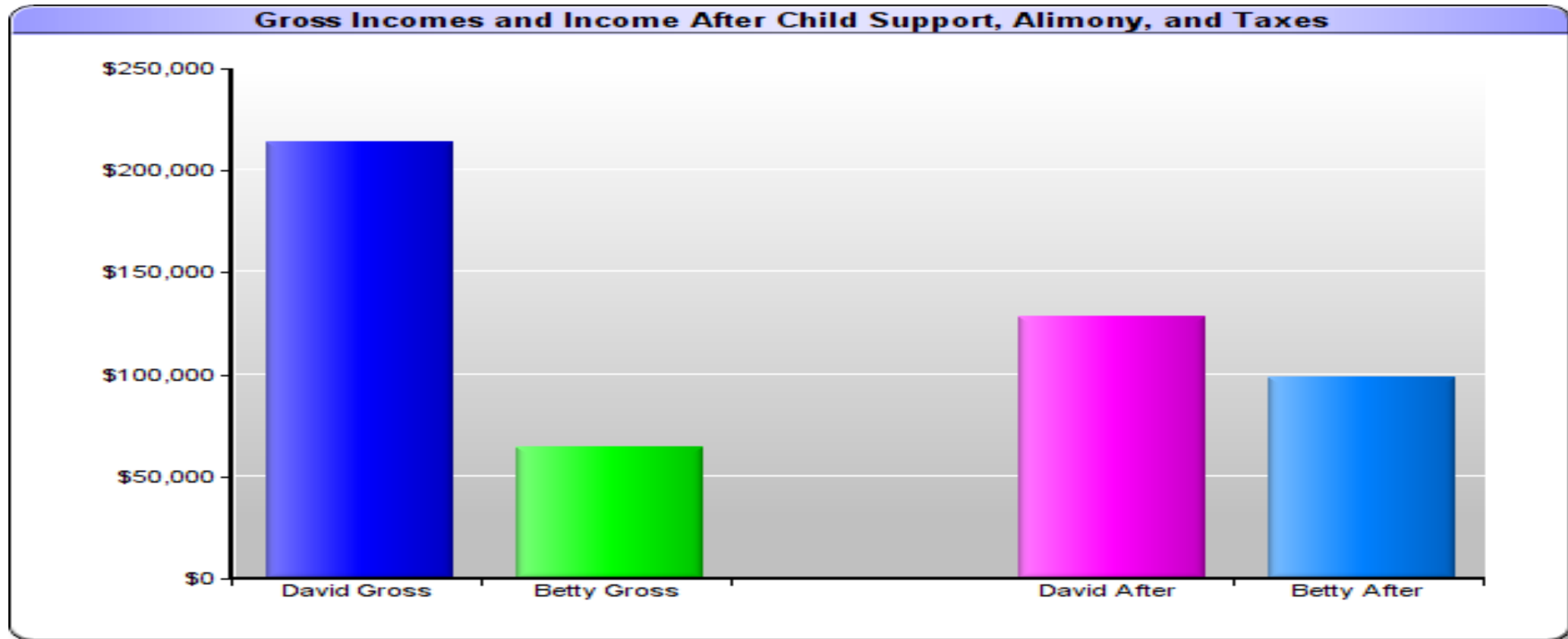
ISSUE 1

Creating Two Income Streams

BUDGET REPORT

			David Monthly		Betty Monthly
Income					
	Wages		\$9,600		\$2,710
	Bonus		\$1,000		\$0
	Pension Plan		<u>\$2,185</u>		<u>\$2,185</u>
	Total Income		\$12,785		\$4,895
Expenses					
	Mortgage Payments		\$0		\$1,200
	Living expenses		\$4,676		\$3,346
	Retirement Plan contributions		\$2,667		\$500
	Life Insurance Premiums		\$92		\$83
	Income Taxes		<u>\$3,300</u>		<u>\$1,089</u>
	Total Expenses		\$10,735		\$6,218
Total Income minus Expenses			\$2,050		(\$1,323)

Income: Gross and After Alimony and Taxes



ISSUE 2

Assets Division

based on value is not always equal

TOTAL PROPERTY DIVISION – NON-RETIREMENT ASSETS

			Total	David		Betty	
	<u>Asset</u>	<u>Title</u>	<u>Value</u>	<u>Amount</u>	<u>Percent</u>	<u>Amount</u>	<u>Percent</u>
	Real Estate						
	House less mortgage	Jt	\$710,459	\$0	0%	\$710,459	100%
	Cash & Investments						
	Checking	Jt	\$4,500	\$2,250	50%	\$2,250	50%
	Savings	Jt	\$11,830	\$5,915	50%	\$5,915	50%
	Brokerage	Jt	\$35,000	\$17,500	50%	\$17,500	50%
	Life Insurance						
	Whole Life	W	\$30,720	\$0	0%	\$30,720	100%
	Whole Life	H	<u>\$35,676</u>	<u>\$35,676</u>	100%	<u>\$0</u>	<u>0%</u>
	Subtotal Non-Retirement		\$828,185	\$61,341	7%	\$766,844	93%

TOTAL PROPERTY DIVISION – RETIREMENT ASSETS

			Total	David		Betty	
	<u>Asset</u>	<u>Title</u>	<u>Value</u>	<u>Amount</u>	<u>Percent</u>	<u>Amount</u>	<u>Percent</u>
	IRA/401(k)						
	401(k)	Jt	\$1,958,200	\$1,370,740	70%	\$587,460	30%
	Traditional IRA	H	\$12,906	\$12,906	100%	\$0	0%
	Traditional IRA	W	\$29,000	\$0	0%	\$29,000	100%
	Defined Benefit Pensions						
	Pension Plan	H	\$810,542	\$405,271	50%	\$405,271	50%
	Pension Plan	W	<u>\$92,041</u>	<u>\$0</u>	0%	<u>\$92,041</u>	<u>100%</u>
	Subtotal Retirement		\$2,902,689	\$1,788,917	62%	\$1,113,772	38%
	Total Assets		\$3,730,874	\$1,850,258	50%	\$1,880,616	50%
	Difference			\$15,179		(\$15,179)	

ISSUE 3

Social Security Benefits

Full Retirement Age Benefits (66 & 6 mos):

David - \$37,260

Betty - \$17,124

Divorced-spouse Social Security benefits



Same as spousal benefits if:

- ▶ Marriage lasted 10 years or more
- ▶ Person receiving divorced-spouse benefit is currently unmarried
- ▶ The ex-spouse is at least age 62
- ▶ If divorce was more than two years ago ex-spouse does not need to have filed for benefits

Rules for divorced- spouse Social Security benefits

- ▶ More than one ex-spouse can receive benefits on the same worker's record
- ▶ Benefits paid to one ex-spouse do not affect those paid to the worker, the current spouse, or other ex-spouses
- ▶ Divorced-spouse benefits stop upon remarriage of spouse collecting benefits (not upon remarriage of primary worker spouse)

ISSUE 4

Insurance:

Life

Medical

Long-Term Care

ISSUE 5

Dividing Pensions and Other Retirement Plans

ISSUE 6

College expenses

ISSUES EVERY COLLEGE-BOUND FAMILY SHOULD CONSIDER

How much can you actually afford

Which schools provide the most generous with financial aid

What “out of pocket” costs are for all four years

What is the funding gap and resulting student loans

FUNDING SOURCES FOR COLLEGE COSTS

Parent's Income during the college years

College Savings

Scholarships

Student Loans

Student Employment

ISSUE 7

Estate Planning

Will/Trust

Power of Attorney – Financial

Power of Attorney – Medical

Living Will

Change of account ownership

Change of beneficiaries



Knowledge Check

Which one of these statements is not true regarding Social Security benefits for an ex-spouse?

- a. Marriage lasted 10 years or more
- b. Person receiving divorced-spouse benefit is currently unmarried
- c. The ex-spouse is at least age 65
- d. If divorce was more than two years ago ex-spouse does not need to have filed for benefits



Knowledge Check

The divorce rate for Baby Boomers is doing what?

- a. Increasing
- b. Staying the same
- c. Decreasing

Questions?

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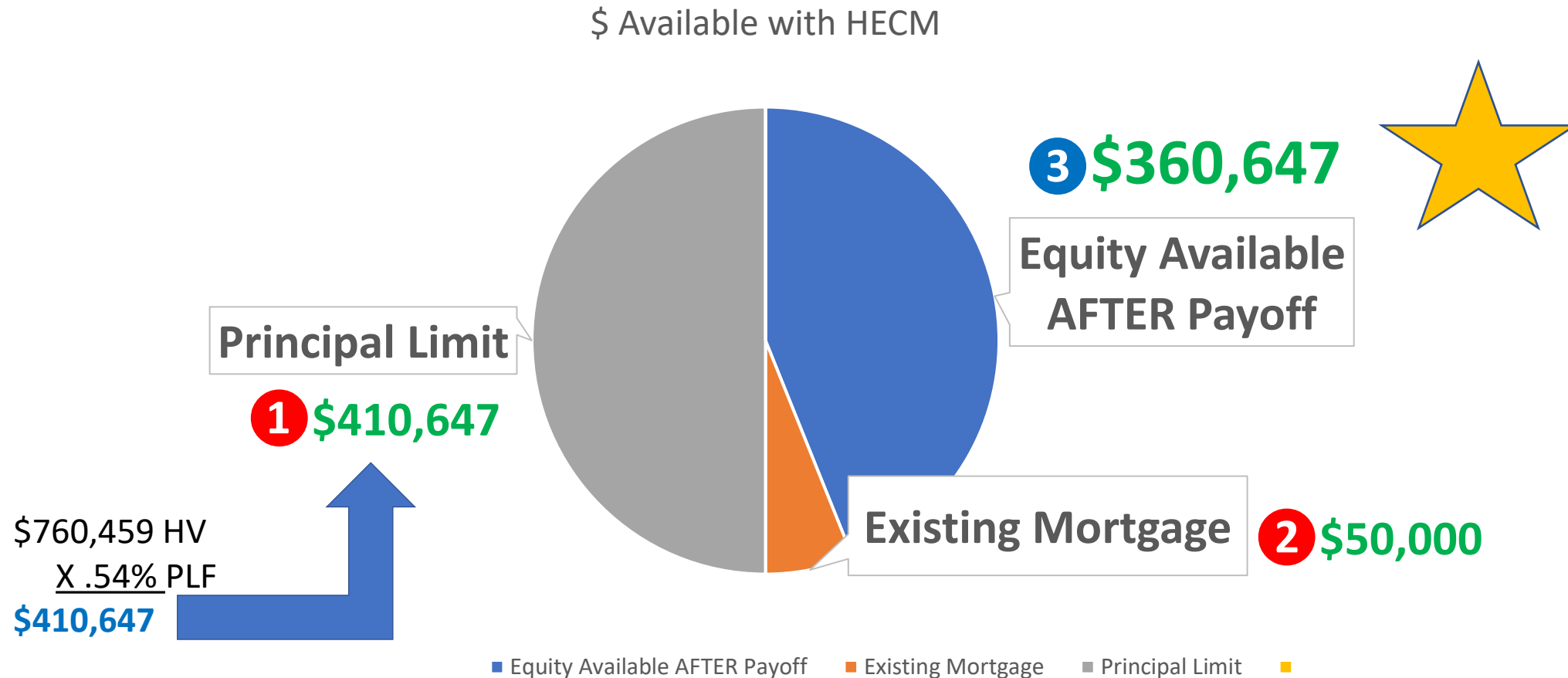
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How Reverse Mortgages Can Help

Tom Dickson



Options for Betty: Home Equity Conversion Mortgage

Assumptions: \$760,459 HV and \$50,000 Existing Mortgage



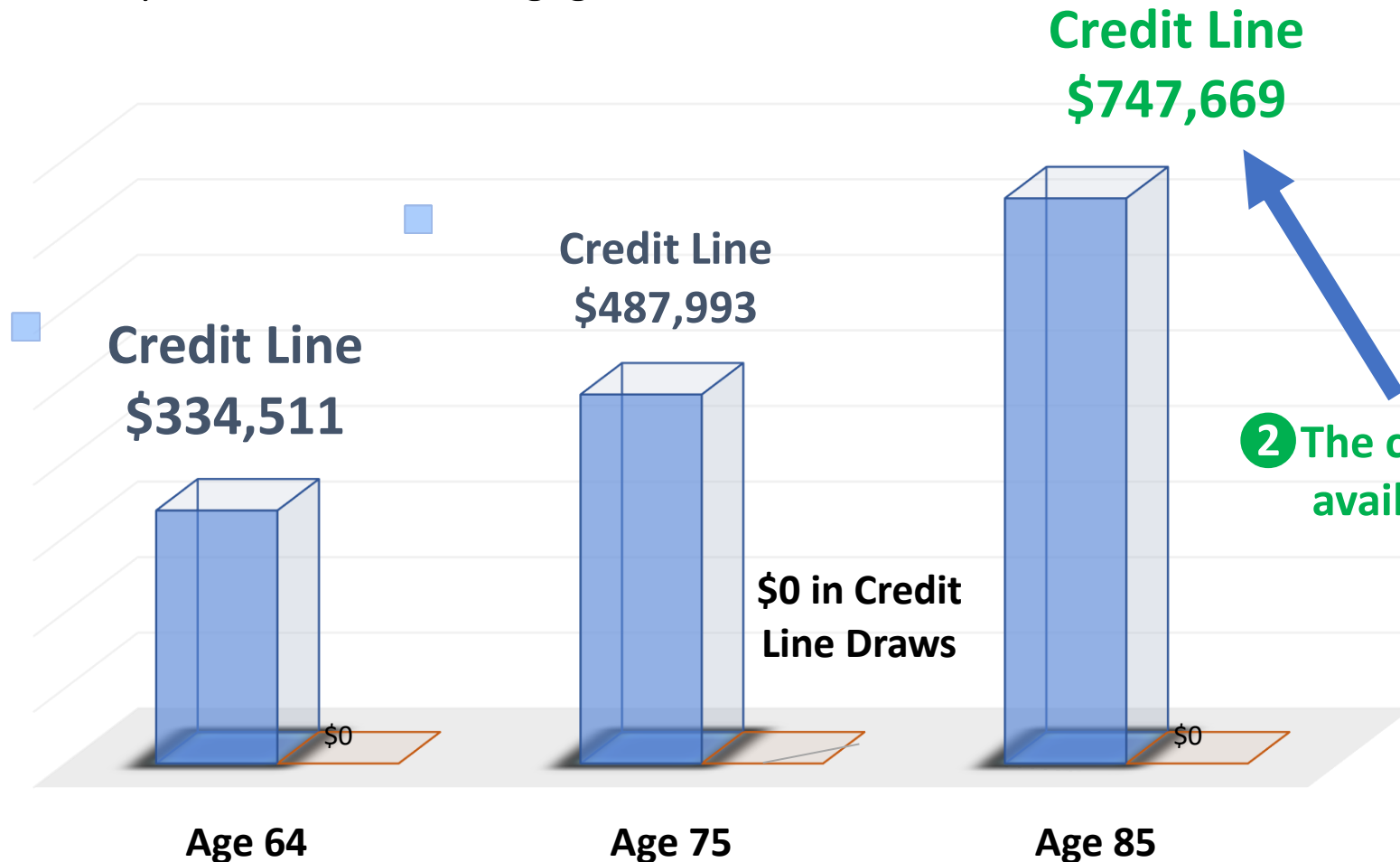
Betty's Budget

	Betty without HECM	Betty with HECM
Income		
Wages	\$ 2,710	\$ 2,710
Bonus	\$ -	\$ -
Pension Plan	\$ 2,185	\$ 2,185
HECM Cash (Tax-Free)	\$ -	\$ 1,337
Total Income	\$ 4,895	\$ 6,145
Expenses		
Mortgage Payments	\$ 1,200	\$ -
Living expenses	\$ 3,346	\$ 3,346
401(k) Contributions	\$ 500	\$ 500
Life Insurance Premiums	\$ 83	\$ 83
Income Taxes	\$ 1,089	\$ 1,089
Total Expenses	\$ 6,218	\$ 5,018
Total Income minus Expenses	\$ (1,323)	\$ 1,214



Or Betty can Pay off Mortgage and Put LOC in Place

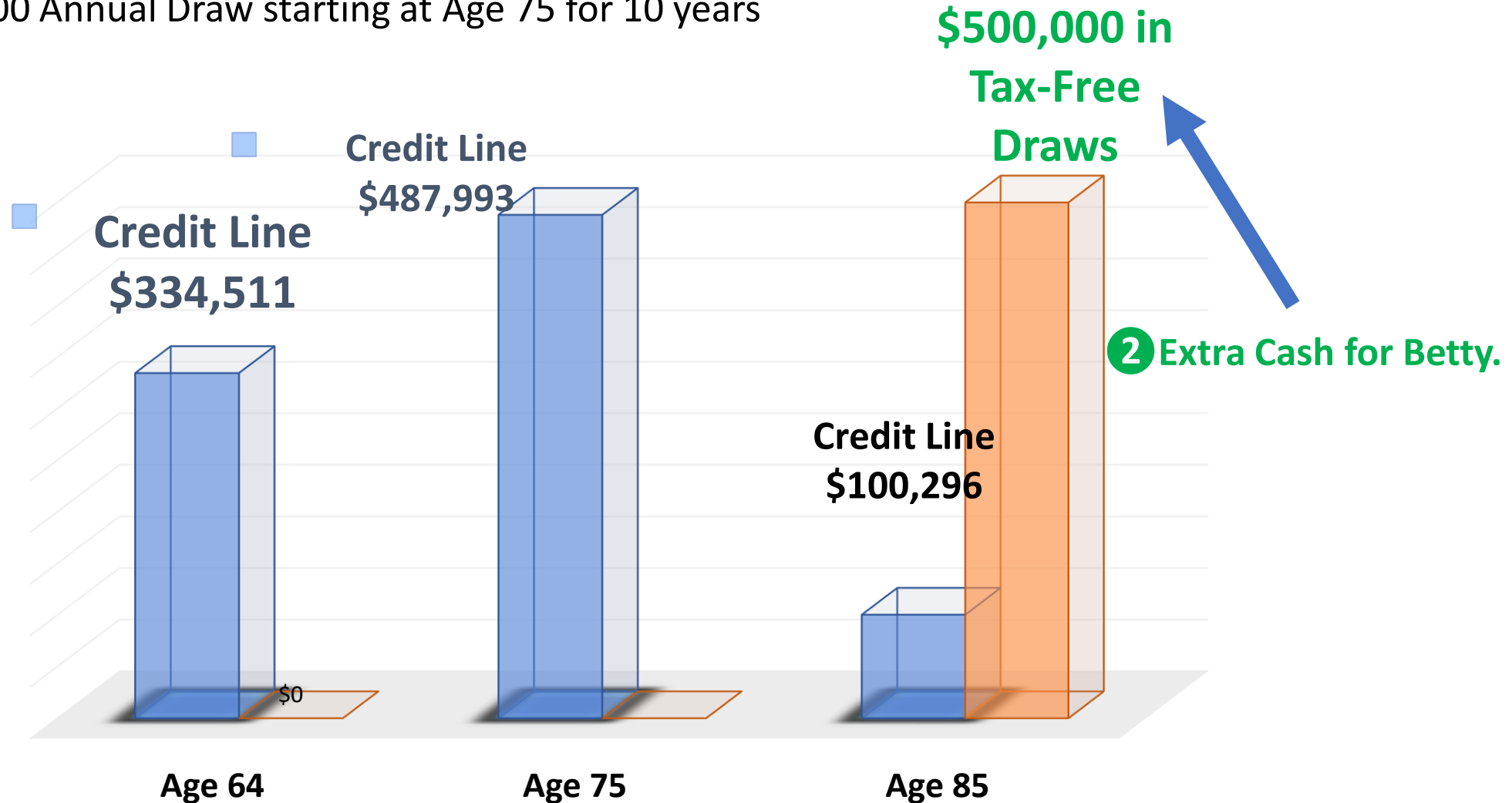
① \$50,000 Payoff of Current Mortgage



② The clients will have this amount available in LOC for ANY purpose.

What's possible with the Credit Line

- 1 \$50,000 Payoff of Current Mortgage
- 2 \$50,000 Annual Draw starting at Age 75 for 10 years



David's Options

Rent

\$2,500 a month

$\$2,500 \times 60 \text{ Months} = \$150,000$

Buy \$500k Home with HECM Purchase

- No Mortgage Payments
- Needs ~\$241,772 Cash

Options:

(1) \$322,362 in 401(k)

(2) They both Downsize?

David's HECM Purchase Option



1 Buys a Condo

\$500,000 Purchase Price

\$258,228 HECM for Purchase (51.6%)

\$241,772 Cash from 401(k) or Betty's Home Equity?

2 NO Payments Required

*Closing costs of \$15,272 and **3.31% Fixed Rate**