TEN TOP DIVORCE TERMS

1. **Legal Separation**
   A legal separation is a court ruling for division of community property, spousal support, and child responsibilities. Couples seeking a legal separation select this method of separation rather than a divorce for religious reasons, insurance needs, or because they just don't want to divorce.

2. **Financial Affidavit**
   The document is a financial statement of income and expenses, assets and liabilities, and other relevant financial information. It is important that these forms are accurate and reflect full financial disclosure. This can be a simple task if you are well-versed in the family finances, but if you do not handle the finances - a Certified Divorce Financial Analyst® can be of great assistance to aid you in preparing these documents.

3. **Community Property State**
   Community Property is acquired during the marriage and is subject to a 50/50 division between spouses in divorce. California is a "Community Property" state. Other Community Property states include Arizona, Idaho, Louisiana, Nevada, New Mexico, Texas, and Washington.

   "Separate Property" is property owned before the marriage (or obtained as a gift or inheritance) and is retained by the owner. Separate property becomes community property if commingled (combined) during the marriage and is subject to the 50/50 split.

4. **Equitable Distribution State**
   Equitable Distribution States divide property based on many factors to create a fair and equitable division of property settlement. Unlike community property states, the division is not always equal. Equitable Distribution States include the remaining forty-two states not listed under "Community Property State". Considerations may include earnings potential, years of marriage, age of each spouse and their respective health considerations. This technique attempts to create fair settlements for after the divorce.

5. **QDRO**
   Qualified Domestic Relations Order (QDRO) is a court order that states how an employment retirement account should be divided between the employee and his/her ex-spouse, timing on when spouse (not the employee) can begin getting

benefits, and what happens if either spouse dies. Employee retirement plans can be tricky. Hire an experienced financial professional to draft the QDRO.

6. **IRC Section 72**
   IRS section 72 is a code that allows a one-time distribution to an alternate payee from a retirement plan without paying a 10% tax penalty. This lesser known tax code provides for a **one-time only,** early distribution penalty free to enable an ex-spouse in post-divorce to establish a new life. **Note:** Ordinary income taxes will apply to this distribution.

7. **Rehabilitative Maintenance**
   This form of temporary support is given to an ex-spouse to allow them time to be trained or educated and be able to earn enough to support themselves. This is especially important for non-working or low-wage earning spouses. Rehabilitative Maintenance may provide time for an ex-spouse to go back to school and then return to the workforce with a better chance to earn a sustainable income.

8. **COBRA**
   The Consolidated Omnibus Budget Reconciliation Act (COBRA) law was passed in 1986. Under this law, a spouse can continue to receive health insurance coverage through her/his former spouse's employer for a period of up to three years post divorce. However, the premiums for COBRA coverage are higher than they were under the employer's plan. The reason is the employer no longer subsidized your health plan coverage. You may find more reasonable rates by researching options under the Affordable Care Act which provides subsidies to providers. Do your research carefully to get the best coverage for yourself at the most affordable rates.

9. **Property Settlement Note**
   This is a note payable from a payor to the payee with a reasonable interest rate percentage for a period of time that is agreed upon by both parties. Notes such as these may be used to equalize an out-of- balance divorce settlement. This can happen when one spouse wants to keep an asset that exceeds his/her share of the proceeds such as keeping a marital home.

10. **Recapture Rule**
    The Recapture Rule kicks in when spousal support payments decrease more than $15,000 within the first three years following a divorce. Violators of the Recapture Rule must include the excess spousal support as taxable income in their tax return in the third post-divorce year.

    Some spousal support payors try to disguise property settlement payments as spousal support payments for tax reasons. Property settlements are fully taxable by the payor whereas spousal support is tax-deductible for the payor. The Tax Reform Act of 1984 created a rule that prevents property settlements from being disguised as spousal support.