



What happens to my inheritance if I separate?

When couples separate or divorce, the division of assets can become complex — particularly when one party stands to inherit money or property in the future. Understanding how family courts approach this issue can help you prepare for proceedings and manage expectations.

If one of you has already received an inheritance during the marriage, it may be treated differently from jointly accumulated assets. Courts consider whether the inherited funds were kept separate or “mingled” with matrimonial assets — for example, deposited into a joint account or used to purchase the family home. Once commingled, an inheritance can lose its separate character and become subject to division. That said, if the inheritance is significant, the person who received it will likely get some recognition for that greater contribution reflected by a higher percentage entitlement to

the joint pool.

A more nuanced situation arises when an inheritance hasn’t been received yet. You can’t rely on an anticipated inheritance especially if the person making the bequest hasn’t lost their capacity to change their will. However, a potential inheritance may still be relevant — particularly in determining one party’s future financial needs or capacity to meet them.

In Australia, the Family Law Act gives courts broad discretion to consider the financial resources of each party, which can include a likely inheritance, especially where a benefactor is elderly or seriously ill and the inheritance is expected in the near term.

Ultimately, family courts adopt a case-by-case approach. Factors such as the length of the marriage, each party’s contributions, the needs of any children, and the realistic likelihood of receiving an inheritance all weigh into the outcome.



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10 minute phone
consultation, call Managing
Director, Fiona Reid.**

Fiona Reid is the Managing Director of Reid Family Lawyers, a boutique specialist family law firm with offices in Brookvale and Surry Hills. She is supported by a team of expert family lawyers. The firm has a wealth of experience in all facets of family law including complex property matters, parenting matters, child support and spousal maintenance issues, relocation, de facto and same sex issues, surrogacy and adoption.



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