

# SPOTTING HIDDEN ASSETS

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In divorce proceeding, it is not uncommon for one spouse to hide or disguise assets or under report income. The process of finding and proving unreported income or hidden assets is often one of the most difficult jobs a lawyer has when representing a client that has not been in control of the parties' finances. While forensic accountants can be very helpful in located unreported income or hidden assets, not all cases can justify the cost associated therewith. As such, the cost of retaining a forensic accountant must be weighed carefully against the potential benefits. Even in those cases where it is not practical to hire a forensic accountant, there are basic things you can do to discover if a party has disclosed all of his or her assets and income. Listed below are things to look for when trying to uncover hidden assets or income:

1. Get copies of all statements on checking, saving and money market accounts. These can be obtained by Non Party Request to Produce. Be sure to request copies of all checks that have been written from the account.
2. Check real estate and UCC records.
3. Get copies of all investment account statements, including detailed copies of all transactions made.
4. Request copies of all personal financial statements that have been submitted to any lender, credit card company or life insurance company. These statements are generally prepared to present the most favorable outlook of the party's financial position and often times disclose assets that were not reported on a financial affidavit. Also, since people tend to inflate the value of their assets on financial statement, they are great to use on cross examination.

5. Third party request to Financial Planner and Estates Lawyers. (Attorney Client Privilege).
6. Review checks for large payments to relatives and friends. (Phony Loans).
7. Custodial Accounts set up in the name of a child using the child's social security number.
8. Antiques, artwork, hobby equipment, guns, watches and other often overlooked assets. Look for antique furnishings, original painting, or collector-level carpets at your spouse's office.
9. Large retainers paid to law firms or accountants that may be refunded after the divorce is finalized
10. Pension and 401K contributions. Oftentimes employer contributions to pension plans are not required to be made until the end of the tax year. Send Non Party Request to Produce to employer to obtain information regarding employer maintained pension and 401K Plans.
11. Request all copies records reflecting all compensation that the opposing party is entitled to directly from employers. Do not rely on the copy produced to you by the opposing party. Oftentimes employment agreements only set out the basic compensation that the party is entitled to receive. Bonuses or stock option may be contained in separate agreements.
12. Income Tax Returns are the first place to look for possible clues as to the existence of hidden assets or undisclosed income. Request copies of all tax returns and schedules for at least three years. (If a joint tax return was filed, either party can obtain copies from the local office of the Internal Revenue Service). On the returns, look for the following:
  - a.) Income from Wages. Examine the W-2 in detail. W-2's not only indicate salary, but they also detail the existence of deferred compensation such as pension and 401K plans and other fringe benefits such as car allowance.

- b.) Schedule B. Interest and dividend income is required to be reported on schedule B. Often times the reported income will lead to the source of an unreported asset that generated the income. (As a word of caution, tax exempt income may not be reported on Schedule B. Therefore it is important to examine all investment accounts thoroughly for any tax exempt investments).
- c.) Tax Refunds. Oftentimes overpayment of withholdings is used to hide income.
- d.) Alternative Minimum Taxes. The alternative minimum tax was designed to prevent taxpayers from using shelters and credits to reduce or eliminate tax that would normally be due. The form used to calculate alternative minimum tax may be a good starting point to discovery hidden assets. For instance, accelerated depreciation on real estate, mining exploration, development costs, and incentive stock options are all required to be reported on the alternative minimum tax form.
- e.) Schedule A. This form is used to itemize deductions on tax returns. Use this schedule to look for real estate and personal property taxes on assets, interest deductions and points, investment interest, casualty and theft losses and investment interest paid.