

# Family law



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RE: Question Presented Can a Certified Public Accountant's professional CPA designation be a marital asset? Brief Answer Yes. Hawai'i statute considers the estate of the parties as anything of present or prospective value. Discussion HRS § 580-47(a) provides that when " finally dividing and distributing the estate of the parties," " the court shall take into consideration: the respective merits of the parties, the relative abilities of the parties, the condition in which each party will be left by the divorce, the burdens imposed upon either party for the benefit of the children of the parties, and all other circumstances of the case." " Estate of the parties" means anything of present or prospective value. Cox v. Cox 7 H. App. 377, 768 P. 2d 243. An issue arises when the individual possessing the CPA license is an employee of a firm and not the owner or partner. In that situation the prospective earnings are valued as are any other wages. The professional license itself would not have separate value. However, if the license was acquired during the marriage to the other partner's detriment, the court would likely seek to equalize the benefit accrued to the licensed partner. The court has adopted the rules pertaining to the dissolution of business partnership to apply to the division and distribution of property in divorce cases. See Gussin v. Gussin, 73 Haw. 470, 483–84, 836 P. 2d 484, 481 (1992). " Under general partnership law, each partner is entitled to be repaid his contributions to the partnership property, whether made by way of capital or advances." Tougas v. Tougas, 76 Hawai' i 19, 27, 868 P. 2d 437, 445 (1994) (internal quotation marks and citation omitted). Then, absent " agreement to the contrary, ' partners share equally in the profits of their partnership, even though they may have contributed unequally to capital or services.' " Id. (quoting Gardner v. Gardner, 8 Haw. App 461, 464–65, 810 P.

2d 239, 242 (1991)) (internal citation omitted). In *Precision Plating & Metal Finishing, Inc. v. Martin-Marietta Corp.*, 435 F. 2d 1262, 1263 (5th Cir. 1970) (per curiam) the court reviewed the trial courts findings and stated that: There is no established market value in the present case in the sense that there were a number of transactions of the same or similar article, the consensus of which reflects the price at which willing buyers and sellers would act. Fair market value here is synonymous with the investment value of the trade secret; that is, what an investor judges he should pay for the return he foresees by virtue of owning the process, taking into account the facts, circumstances and information which is available at the time. Applying the fair market valuation to a professional license does not yield an equitable result beyond its ability to add value to the marital estate in the form of a business interest or potential earnings. Thus the license itself has no intrinsic value