

What Liability Do I Have for my Hubby's Debts (and Vice Versa)

The Texas rules about your liability for your spouse's debts are so tricky that I can't remember them with confidence. So I worked up this short outline, and I will share it with you. The full outline would be maybe 15 pages long and the details would obscure the main points. If after reading this you still want more, you should consult an attorney for the full treatment.

Texas law has 5 classes of marital property:

1. Husband's separate (usually property he owned before marriage or got by inheritance, gift, or thru a marital property agreement)
2. Husband's sole control community (property he would have had were he not married, such as earnings from his job)
3. Joint control community (property the spouses manage together — like a joint bank account)
4. Wife's sole control community (property she would have had were she not married, such as earnings from her job)
5. Wife's separate (usually property she owned before marriage or got by inheritance, gift, or thru a marital property agreement)

There are two kinds of debts:

1. Contract debt — when your spouse borrows money or buys something on terms
2. Tort debt — when your spouse hurts someone and gets sued — say, for causing a car wreck or botching a heart surgery

Here is a chart showing your liability for your hubby's debts while both of you are alive:

Type Property	Hubby's Contracts	Hubby's Torts
Your separate	No Liability	No Liability
Your half of sole control community	No Liability	Liable
Your hubby's half of your sole control community	No Liability	Liable
Your half of joint control community	Liable	Liable
Your hubby's half of your joint control community	Liable	Liable

When your hubby dies, half of the community passes thru his estate where it is subject to his debts. Here is a chart showing your liability for his debts at the time he died. Your position is somewhat worse.

Type Property	Hubby's Contracts	Hubby's Torts
Your separate	No Liability	No Liability
Your half of sole control community	No Liability	Liable
Your hubby's half of your sole control community	<i>Liable</i>	Liable
Your half of joint control community	Liable	Liable
Your hubby's half of your joint control community	Liable	Liable

Here are some comments that may help:

1. If you are a husband, the rules work the same vice verse.
2. The scary rule is your liability for your spouse's torts. If your spouse drives drunk and causes an injury, this could cost you your savings from your work. If your spouse is in a high risk business, you may want to seek separate property.
3. The tricky rule is the one about your sole control community after your spouse dies. While your spouse is alive, his contract creditors can't touch your sole control community. But after your spouse dies, the creditors can get half.
4. Exempt property (your homestead, insurance you receive as beneficiary, etc.) will trump these liability rules.
5. Your liability could be expanded if the contracts of your spouse were for necessities. This is based on your duty to provide things necessary for the basic well-being of your spouse.
6. You have no liability for the debts your spouse had before you entered the marriage.
7. When your spouse dies, the community is divided. Any new funds coming in will be your separate property and not liable for your spouse's debts. Your spouse's creditors have a lien on the property interests set out in the charts, but this doesn't create a personal liability on your part.