Asset division during divorce is a major bone of contention. For a common citizen of China or a foreigner, it can be quite difficult to figure out how one’s assets are to be classified and divided as per legal procedures. Some issues of concern would be whether the assets acquired during marital years would be divided equally or not. In such cases, one must research sufficiently to make sure that all assets are divided most justly during a divorce in China.

The above were just examples of few rules and regulations governing the laws of divorce in China. It is better to hire a divorce attorney in knowledge of the various rules and clauses. Divorce in China cases require several fulfillments of formalities and divorce settlement also takes time therefore; it is advised that hiring an attorney be done at the earliest.

One of the most important aspects in a divorce case is marital property division. This can be one of the most combative parts of the divorce case as each side generally feels they are entitled to more. The important point to note is that this does not affect non-marital property; thus, all property acquired by either spouse before the marriage is considered non-marital property. Generally all marital property is “equitably” divided 50-50 except in special circumstances. Having a divorce lawyer representing you in a divorce court during these disputes will ensure that no unaccounted marital property is un-equitably granted to both side and ensure that all assets and property are divided according to the law.

The principle of distribution of marital property division in Chinese courts: the article 17 of Marriage Law of the Peoples Republic of China refers that “property shall be jointly owned. Both husband and wife shall have equal rights in the disposal of jointly owned property” after listed the community property during the existence of relationship between husband and wife.

There are two aspects meanings about the sentence “property shall be jointly owned. Both husband and wife shall have equal rights in the disposal of jointly owned property”:

I. During the existence of marriage relationship, if the property belongs to the community property ,whatever the contribution he or she makes ,both husband and wife shall have equal rights in the possession , appliance , income, sanctions of jointly owned property.

II. When it comes to divorce ,if it is the community property, the right of marital property division is equal, but it doesn’t mean go halves. So, what’s the reference when divide the community property in divorce?

1. According to article 39 of Marriage Law of PRC , ”At the time of divorce, both husband and wife shall agree upon the disposal of the jointly owned property” It means that the plan of marital
property division can not be decided by one part, it must be agreed by both two sides on a voluntary basis.

2. In accordance to the principle about “gender equality” in Marriage Law of PRC, discrimination against women is not allowed. It’s really wrong to consider women as the one who earn less and deserves less money when dividing the community property. We should respect the right of women and protect their authorities.

3. In accordance to article 39, second paragraph of Marriage Law of PRC,” if they fail to come to any agreement, the peoples court shall decide the disposal thereof, taking into consideration the actual circumstances of the property and following the principle of favoring the children and the wife.”

4. The principle of making compensations.
   Article 41 of Marriage Law of PRC, “In the case both husband and wife agree to separately own the property they respectively obtain during the existence of their marriage and either of them has spent considerably more effort on supporting children, taking care of the old or assisting the other party in work, etc, this party shall be entitled to demand the other party to make compensations at the time of divorce, and the requested party shall make compensations.”

According to this article, at the time of marital property division, the one party who spent considerably more efforts can demand the other party to make compensations. The compensations is paid from the property after the marital property division, if it is not enough, it can be divided from the personal property of the other party.

5. The principle of taking care of the innocent party
   If it is one party’s fault to lead the nonexistence of mutual affection as husband and wife and divorce, the innocent party shall be entitled to claim damages.
   Article 46 Marriage Law of PRC, “In any of the following circumstances which has led to the divorce of husband and wife, the innocent party shall be entitled to claim damages:
   a. bigamy;
   b. cohabitation of a married person with any third party;
   c. domestic violence; and
   d. maltreatment and desertion of one family member by another.

Marital property system is an important part of marital property system is one of the provisions of the existing marriage law but its not perfect, this paper from the study of Marital Property System in China’s current situation and the lack of raised will further complement and improve recommendations.

With the Development of market economy, the nature of marital property, sources, types also
will be constantly changing, and with the concept of marriage changes people, and growing self-awareness, matrimonial property have become an increasing concern and attention of people about marriage property disputes is also increasing. The Marital Property System to maximize the satisfaction of the marital property between the parties on different needs. Marital Property System refers to the form of both spouses can agree to contract marriage relationship before marriage property and property acquired during the ownership, management, use, income, sanctions and debt settlement, the division of matrimonial property upon termination and liquidation matters. Marital Property System in increasingly been accepted and adopted. The newly revised marriage Island are to be the country's economic development The changes, the Marital Property System from the agreed content, form, effect to the two sides of property outside the provisions of the responsibility to a simple, consistent with the real needs of our country, also played a role in setting numerous war ended, is conducive to social harmony in the family, stability, Marital Property System in the legislation on the recognition and enrich and improve the content of great significance. However, the provisions of the revised Marriage Law of Marital Property System in a variety of objective and subjective reasons, there are still many unsatisfactory place. This paper on Marital Property System in China's status and deficiencies, and proposes recommendations to further improve the future.