



Robert W. Wood

THE TAX LAWYER

Jul. 4 2012 — 12:39 am

Three C's In Katie Holmes Tom Cruise Deal: Custody, Cash And Church

We love fairy tales yet are fascinated by princes who turn out to be frogs. That's one reason we're drawn to the Katie Holmes Tom Cruise divorce.

See [Katie Holmes Divorcing Tom Cruise, Scientology And Taxes](#).

Others include Cruise's stature (entertainment and financial, not height), [Scientology's](#) mystique, and

his whole weird wind-up to dating and proposing to Katie Holmes. Who interviews prospective spousal candidates like employees?



(Image credit: AFP via @daylife)

There's even the suggestion that Holmes outsmarted alias Ethan Hunt by filing in New York where Cruise (perhaps understandably) doesn't want to pay taxes. This story has incredible juice, and even if Holmes started out on mopey [Dawson's Creek](#), her chess move seems shrewd. What kind of deal will she get?

The biggest issue, custody of Suri, is shaping up to be a battle of major proportions. See [Will Tom Cruise And Katie Holmes' Divorce Be One of Hollywood Nastiest Custody Battles?](#) If Holmes gets sole custody it will impact the numbers, but predicting her net is anyone's guess. Indeed, reports vary whether the prenup gives Holmes \$3M per year of marriage or nothing!

Yet Cruise is worth hundreds of millions. He ranked as Forbes' [No. 9 Most Powerful Celebrity](#) and made \$75M just last year. Seeking a wider division of assets may be tempting for Holmes no matter how tight the prenup and whether her New York strategic filing sticks or gets bumped to California.

Yet Holmes may care only about custody and child support, putting all her eggs in that basket. Whether she is awarded sole or joint custody, there will surely be significant child support. It will be nontaxable to her and can't be deducted on Cruise's taxes. What about alimony, also known as spousal support?

If Holmes does get \$3M for each year of marriage, its characterization for tax purposes depends in part on how the prenup is written. It could be spousal support (taxed to Holmes and tax-deductible by Cruise). Alternatively, it could be property settlement with no tax impact to either of them.

Surprisingly, the parties have some latitude in ascribing tax characteristics. Cruise could use taxes as a carrot or stick. No matter what the prenup says, though, it seems likely that there will be some kind of property settlement, especially given Holmes' claim for sole custody. Stay tuned.

For more, see:

[Katie Holmes Divorcing Tom Cruise, Scientology And Taxes](#)

[Biggest Injustice Of Denying Same-Sex Marriage? Tax-Free Divorce](#)

[Disability Pay: Some Taxable, Some Tax-Free](#)

[Kris Humphries v. Kim Kardashian: LaLa Land Lawsuit?](#)

[How Mark Zuckerberg's Taxes Change Now That He's Married](#)

[Six Tax-Wise Ways To Reduce Your Legal Bills](#)

[How To Make Divorce Less Taxing](#)

[Gay Or Straight, Marriage Matters—For Taxes](#)

[IRS vs. Scientology: Here We Go Again](#)

*Robert W. Wood practices law with [Wood LLP](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009 with 2012 Supplement, [Tax Institute](#)), he can be reached at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*