Mesirow

Wedding planning: Critical financial tips

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It's a fact; couples in the US are marrying later in life, especially college educated professionals. As a result, both partners have often begun to save, invest, and accumulate assets. Premarital financial planning has therefore become extremely important. And, the awkward question must be asked: "How can we protect our assets when entering into marriage without tainting the romance of engagement?"

According to the US Census Bureau, the average age for first marriage in 2022 was 30.5 years for a man and 28.6 for a woman; compared to 22.8 and 20.3, respectively, in 1960.[1]

People often equate premarital planning with "prenuptial agreements," and mistakenly think that these arrangements are only for the wealthy. The fact is that there are a number of other planning strategies that can protect your premarital assets.

Protect the integrity of non-marital property

Marital property is subject to division upon dissolution of marriage; non-marital property is not. So, one way to protect your assets upon marriage is to clearly understand how non-marital and marital property are defined, and how they are impacted in the event of a divorce.

Non-marital property consists of assets that each spouse either brings to the marriage or inherits after the onset of marriage. Examples include:

- Property one spouse acquired before the marriage
- Property excluded from the marital estate by valid agreement of both parties (i.e. prenuptial agreement)
- Property acquired in exchange for property acquired before marriage by gift or inheritance
- Property acquired by one spouse by way of gift or inheritance
- Property acquired by a spouse after a judgment of legal separation
- Income from any of these types of non-marital property

Marital property includes all assets acquired by either spouse during marriage and before a judgment of dissolution of marriage. Examples include:

- Non-marital property that has been transferred into some form of co-ownership between spouses
- Income (earned income and bonuses
- Retirement accounts acquired or participated in by either spouse after marriage (IRAs, 401Ks)

In order to maintain the nature of the non-marital assets, the following should be considered as potential strategies.

Title your assets appropriately prior to marriage

If the assets are held in an account that is titled in an individual's name, the assets should continue to be held in this manner. However, to maintain this property as non-marital, one must ensure that they do not

“taint” the character of these assets. Commingling these assets with marital property or making contributions to the account with marital assets may make these assets marital.

- For example: Let’s assume that Jane has an investment account with $100,000 as a result of a gift received by her parents. After marriage, Jane receives a sizable bonus and would like to invest these funds as well. Because the bonus would be considered marital property, the funds should not be commingled with the $100,000 account that holds the premarital gifted property, but rather in a separate account or added to other like assets.

Consider a family limited partnership or irrevocable trust

Family limited partnerships and irrevocable trusts are tools that can provide effective creditor protection. Depending on the size of a family’s overall wealth, personal situation, and other variables, a family’s strategic plan may provide for a portion of their assets to be retained in a partnership or trust.

If the trust is structured appropriately, certain provisions will not only make the assets retained in the trust separate non-marital property, but will also allow the assets to be excluded from any future determination of potential maintenance obligations. If one does not have assets currently in trust or another entity, it may be beneficial to consider talking to counsel to determine if, and how, such planning techniques can help protect assets in the future.

Retain financial independence

Regardless of whether a couple takes the steps noted above or conversely there is no necessity to take these planning strategies into consideration, couples entering marriage might want to consider retaining some financial independence. Below are a few easy ways that this can be accomplished:

- Retain a separate bank account that allows for immediate access to cash with funds that cannot be “cut-off” by the co-owner
- Both parties should maintain credit in their own name (utility bills, car payments, credit cards)
- Discuss and be transparent about the financial health and activity of the household (don’t keep any one partner in the dark)

Consider a prenuptial agreement

While the above are ideas to consider, a properly executed prenuptial agreement is not necessarily a recipe for marriage disaster. A prenuptial should be viewed like any other insurance policy. When you buy auto insurance, you don’t excitedly wait to use the insurance, but you have it in the event that something unfortunate does happen. A prenuptial can provide clarity in the unfortunate event of divorce by:

- Specifying which assets are separate, and which property may be marital
- Laying out how the assets would be divided
- Determining potential maintenance expectations (typically dependent on length of marriage) in the event of divorce

Our recommendations

In summary, while premarital planning can include the process of obtaining a prenuptial agreement, there are other solutions and planning techniques one can utilize. While all situations differ, it is always

recommended that the specifics of an individual's situation be coordinated with appropriate legal counsel and other family advisors.

If you are planning to get married — or know a friend or family member who is — your Mesirow wealth advisor can serve as a third party to initiate this conversation and to help structure and retain the integrity of non-marital assets prior to marriage.

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