

# BEFORE YOU REMARRY:

## *Things for Boomers to Consider with Respect to Estate Planning* BY GARY ALTMAN, ESQ.

With Valentines' Day upon us, love is in the air. As a boomer and a romantic, I believe that marriage (even the second time around) is a wonderful thing. That said, the attorney and the realist in me knows that sometimes financial and estate issues can get in the way. Therefore, there are several things for boomers to consider before remarrying.

### **Children from a First Marriage**

Naturally, remarrying is more complicated when children are involved. Two of the most common concerns are: How will you care for your children financially while providing for a new spouse, and, how can you leave assets fairly between children from your previous marriage and a new spouse? Sharing these and other concerns with your financial and estate planners is key when deciding on solutions that work for your new family dynamic.

### **Pre-Marital Agreements**

No longer taboo, pre-marital agreements are becoming more and more mainstream - and with good reason. As you probably know, the reality is that relationships don't always work out like we expect them too. Signing one is the difference between protecting your income and your children's inheritance rights, and not.

### **Living Arrangements**

With marriage, comes that little thing called logistics - such as where to live. Should you move into your spouse's house, and the unfortunate happen to them, how can you ensure that you won't then be kicked out by your deceased spouse's family? Likewise, if something were to happen to you, would your spouse, children and/or step children be protected?

### **Medicaid**

If one spouse goes into nursing home, then both spouses' assets must be used. So, it is important to be sure that there are sufficient assets or long term care insurance to care for an incapacitated spouse. Medicaid is one area where state laws differ widely and it is important to work with an experienced local lawyer.

### **Estate Taxes**

Of course, many tax laws have different provisions for married couples. This is particularly important to understand when it comes to estate tax laws. A good estate planning attorney should be able to guide you in understanding how the various local and federal estate tax laws may impact you after you remarry. For example, it's possible to defer estate taxes when married due to the unlimited marital deduction. You could even create a trust for your spouse that will qualify for the unlimited marital deduction (and therefore defer estate taxes), while still making sure that any unused assets at your spouse's death will be given to your children.

### **Pensions / Social Security**

Often overlooked, if one or both spouses are getting a pension, then the new spouse may be entitled to survivor pension. The same goes for social security.

### **ERISA Plans / IRA**

Here's where it pays to have an estate planner who is comfortable working in partnership with the financial planning community. You may need or want a waiver of Employee Retirement Income Security Act (ERISA) plans which has to be done after marriage. The same goes for IRAs in some states. In any event, getting remarried is a wonderful opportunity to make sure that the beneficiary of your retirement plans, IRAs and life insurance is correct. Too many times, divorced spouses forget to remove their former spouse as a beneficiary of their retirement plans, IRAs and life insurance.

### **Credit Cards and Other Debts**

Especially in second marriages, keep your debts and credit cards separate. The worse scenario would be for your spouse to die leaving you responsible for his or her debts and credit card balances, while leaving all the assets to the children from another marriage.

The bottom line? If you're lucky enough to have once again found love, congratulations! By all means, enjoy it! Just remember to do your due diligence before you walk down the aisle and take the steps necessary to protect everything you've worked for your entire life. It's not "unromantic" - it's smart.

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