HIGHTOWER
RDM FINANCIAL GROUP

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Planning Concerns of Unmarried Couples

Wealth Managed to a Fiduciary Standard

At RDM, we help you coordinate what is often multiple financial goals (wealth accumulation, retirement income, legacy planning, etc.) through a maze of tax, legal and investment possibilities. It is critical to understand, develop and implement effective, long-term strategies that align with your objectives and prepare you for the future.

Planning Concerns of Unmarried Couples

What is it?

As an unmarried couple, you lack many of the legal protections and advantages that married couples automatically receive. For example, divorce laws don't apply to you, tax laws treat you differently, and government and employer-provided retirement plans may not recognize your relationship. You face many issues involving money, insurance, property ownership, parental rights, estate planning, and taxes. Because of the many issues you, as unmarried partners, face, you need to take extra steps to secure a solid financial future for your partner and yourself. You must create your own legal safeguards with the help of an attorney or experienced advisor through domestic partner agreements, property ownership as joint tenancy with rights of survivorship, wills, living trusts, powers of attorney for health care and finances, and documents that will help you safeguard your parental rights.

Domestic partner agreements

A domestic partner agreement is a written legal contract between you and your partner that supports your ownership rights and clarifies your intentions for the distribution of your property if you die or your relationship ends.

If any of the following situations applies to you, you may want to consider a domestic partner agreement:

- You want to protect your income and property rights in case of separation or death
- You have more than a minimum of assets
- You expect to commingle your finances, perhaps by purchasing household goods or other property together, sharing income, or holding joint bank accounts or credit cards
- You want your relationship to run smoothly with a clear understanding of your financial rights and responsibilities

Money issues that concern unmarried couples

If you combine your finances and your relationship ends, no divorce courts or uniform guidelines exist to separate your commingled assets. Your relationship lacks many of the legal safeguards that protect married couples. Before combining your finances, take some time to discuss your financial values, priorities, and goals. For example, how will you handle household expenses, separately or jointly? If you pay expenses jointly, how will you split them, equally or apportioned in some way? Will you open joint checking and credit card accounts? If you do, how will you protect yourself if your partner fails to meet his or her obligations and you become responsible for the entire joint debt? Will you plan for retirement separately or as a couple? How will you replace the spousal benefits that your partner won't receive from your Social Security earnings and your defined benefit pension plan?

Insurance issues that concern unmarried couples

Life insurance

Life insurance can provide a vehicle to address many concerns of unmarried partners. For example, government and employee benefit programs don't replace income for your partner after your death, as they do for a spouse. Tax laws don't shelter your estate, as they do for a married couple. You may face a greater likelihood that disapproving relatives will contest your will. Life insurance offers a vehicle to replace income after the death of your partner, provide cash to pay estate taxes, and provide funds that avoid probate.

Health insurance

Some employers offer domestic partner benefits--including health insurance--to the unmarried partners of employees. A major disadvantage of these plans is that the health coverage your employer provides to your unmarried partner is generally treated as taxable income to you at the federal level (unless your partner qualifies as your dependent for federal income tax purposes), but not always at the state level. If your employer offers these benefits, you should complete a cost/benefit analysis, taking the tax effect into account, before your partner enrolls. Or, if your employer offers domestic partner benefits and your partner's employer also offers health insurance, you should compare the annual cost of each plan before selecting coverage. You may find the additional tax on the domestic partner coverage outweighs the benefits of enrolling in a domestic partner benefits plan.

Property ownership issues that concern unmarried couples

As an unmarried couple, no uniform guidelines aid in dividing your shared property if your relationship ends. If you die, your property does not automatically pass to your partner. There are three main categories of property to consider: (1) property with a documented evidence of ownership, such as real estate, vehicles, bank accounts, and securities (stocks and bonds), (2) property in the form of income, and (3) untitled property. By understanding the different forms of property ownership that are available to you (sole ownership, joint tenancy with rights of survivorship (JTWROS), and tenancy in common), you can protect your rights and ensure that your property is disposed of as you wish. A written agreement, such as a domestic partner agreement, can support your ownership rights and your intentions if you die or your relationship ends.

Parental rights issues that concern unmarried couples

As an unmarried parent, you must take extra legal precautions to protect your rights. Parenting rights that are automatically conferred on married couples don't necessarily apply to unmarried parents. For example, depending on your state's laws, you may not be allowed to authorize emergency medical treatment for your child or stepchild if you are a nonlegally recognized parent. You may not be automatically granted custody or visitation rights if your relationship with your partner ends and you are a nonlegally recognized parent. You may not automatically become the legal guardian of your child or stepchild if your partner dies and you are a nonlegally recognized parent, no matter how long you've raised the child.

You can help protect your parenting rights with key legal documents. These may include your child's birth certificate, a paternity statement, a co-parenting agreement, a nomination of guardianship clause in a will, and a form authorizing consent to medical treatment. Bolster these legal documents by discussing your arrangements with the teachers, medical-care workers, recreation leaders, and others in your child's day-to-day life.

Estate and tax planning issues that concern unmarried couples

As unmarried partners, you have no automatic legal right to inherit each other's estate. Unless you have a will or will substitute to provide for your partner, your estate will go to your legal next of kin. Without a durable power of attorney for health care, you may be excluded from medical decision making or even from visiting your partner if he or she becomes seriously ill or incapacitated. If you don't have a durable power of attorney for finances, you have no authority to manage your partner's affairs, as he or she would wish.

Because you cannot take advantage of the unlimited marital deduction, which is only available to married couples, your estates may be subject to federal taxation on any amounts in excess of the applicable exclusion amount that you leave each other. Gifts you make to each other are also taxable if in excess of the annual gift tax exclusion and not sheltered by your applicable exclusion amount. Although property you share through a JTWROS avoids probate, it does not automatically escape gift and estate taxes.

For income tax filing purposes, you're considered to be two unrelated single people, and this has certain ramifications when it comes to planning for income taxes. For example, as single filers, you can't combine deductions, and the phaseouts for deductible contributions to traditional and Roth IRAs are lower for single filers than for married couples filing jointly.

Consult an experienced tax professional for more information.

DISCLOSURES

RDM Financial Group does not give tax or legal advice. Consult your tax advisor and attorney on all tax and legal matters.

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