



Maureen E. Hansen, CLU

Estate planning for the second time around

By Maureen E. Hansen, CLU, Financial Consultant,
SVA Planners, Inc., Registered Investment Advisor

Thinking about tying the knot for the second time? If so, you may need to answer some tough questions first. Whose house will you live in? Who will pay for routine living expenses? Who will pay for medical insurance? Will you file joint income tax returns? Who will pay for vacations and travel? What will happen to your property when you die?

The fact is that you and your fiancée may have conflicting ideas about estate planning goals. Before you take that walk down the aisle, you may need to resolve these differences so you can live happily ever after.

Certainly, if either of you have children or significant assets in your name, you will need to know the legal and financial implications of marrying. During this process, try to keep your feelings in check. Discuss the process logically with your head, rather than with your heart. It may be difficult, but you shouldn't let these financial matters reflect negatively upon your rela-

tionship. For this reason, consult with a qualified attorney prior to the marriage. This may also help you prevent misunderstandings between the families.

Issues to Address

Assets need to be discussed. The intended disposition of individual assets, both during the marriage and following the death of either you or your spouse should be addressed. Marital agreements—whether prenuptial or entered into after the marriage—are used to identify and specify how your marital and individual assets should be distributed. Preserving individual assets after marriage can be a risky business. With commingled assets, it will simply be too difficult to trace individual assets.

A financial planner—working with your legal advisor—can help you create an inventory of your assets, update beneficiary designations, and identify techniques that will save you and your heirs time, money, and aggravation. Don't underestimate the value of CYA... **Checking Your Assets.** For example, make sure you update your life insurance and retirement plan beneficiary designations.

Now let's take a look at some of the primary concerns you should keep in mind.

Children From Previous Marriages One or both of you may want to

preserve your individual assets for your children from a previous marriage. Of course, you don't want to offend your new life partner in the process. A QTIP (Qualified Terminable Interest Property) trust provides income from the assets to the surviving spouse for their life, but ensures that the QTIP property will ultimately go to the children from a prior marriage. A QTIP also qualifies for the marital deduction.

Marital Agreements and Trusts

A common estate planning tool for a second marriage is a premarital agreement in which a couple sets forth their assets and their intentions. The cardinal rule in any premarital agreement is disclosure... disclosure... disclosure. If you don't disclose all your assets, you run the risk of not having the agreement enforced upon divorce or death. By establishing a premarital agreement, you can also decide ahead of time what you want to provide for your spouse should a divorce occur or only at the death of the first spouse. While the same agreement can be reached after you're married, it is often difficult to change the expectations that can result from failing to discuss this issue.

Separate Legal Representation

Many estate planning issues can be quite technical in nature. According to Bob Wilkins, an estate planning attorney at Moertl, Wilkins and Campbell, S.C. in Milwaukee, Wis,

Based in Brookfield, Wis, Ms Hansen is a fee-only financial consultant with SVA Planners Inc., Registered Investment Advisor. Hansen works with individual investors and business clients, helping them manage their retirement plans, monitor their investment portfolios, and understand the financial planning process. She was named a Chartered Life Underwriter (CLU) in 1994. For more information, call Wisconsin Medical Society Insurance and Financial Services, Inc. toll free at 866.442.3810.

separate legal representation is essential in effective marital agreements. Generally, one spouse is more dominant in their wishes. Therefore, it is important to have an honest exchange of information, with each spouse having an equal opportunity to share his/her ideas and concerns.

Incapacity Planning

In the event of incapacity, you should have a clear understanding of how to carry out the wishes of your incapacitated spouse. Problems may arise, particularly when there are children of the incapacitated spouse from a prior marriage. Make it clear in writing how financial decisions should be made, who should make them, and how to manage the obligations of the incapacitated spouse.

Estate planning in second marriages may not be easy. But when broken down into realistic pieces, it can be manageable. As in any marriage, good communication is the key to success. Discuss your financial objectives with your future spouse and establish a plan you can both live with. Then, share your plan with your children. The more your families understand your wishes, the less likely your heirs will feel conflicted at the time of death.



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