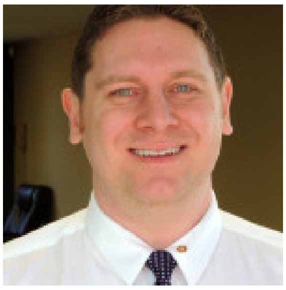
Money Matters: Financial planning for unmarried domestic partners

By Nic Abelow

Today's "modern family" is decidedly nontraditional. According to the latest Census data, less than 25 percent of American households currently consist of married couples with dependent children, while more than 40 percent of unmarried couples have children under the age of 18. Even the term "married" can be defined differently depending on where you live. Some states allow and recognize same-sex marriage, but the majority of states and federal government do not. Therefore, it's important for domestic partners to ensure they have legal protections in place to protect their families and themselves.



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Legal protections

Unmarried partners lack many of the legal protections granted to spouses in the event of divorce or death. Although most states will consider a claim by an unmarried partner, there is no specific legal precedent in the absence of a written contract. Domestic partners may wish to consider creating a domestic-partnership agreement that details the sharing of expenses as well as the ownership and distribution of assets should the relationship end. Unmarried couples with children should consider signing a written agreement acknowledging parental rights and responsibilities and having each partner name the other as primary guardian in wills.

Retirement considerations

Unmarried couples are not eligible for their partner's Social Security benefits and, in some cases, employer-sponsored retirement plan distributions. The IRS allows a nonspousal beneficiary of an IRA to take required distributions over his or her lifetime rather than in a lump sum, allowing for potential tax-deferred growth over a longer period of time. Domestic partners who can afford to do so may want to contribute the annual maximum to an IRA to capitalize on this benefit.

Estate planning issues

If an unmarried individual dies without a will, the state may distribute assets to his or her closest blood relatives, leaving the surviving domestic partner out in the cold. To help rebut a challenge to a will, domestic partners may want to videotape their wishes in the presence of an attorney.

Federal tax law allows all assets to pass to a spouse tax free and no applicable estate taxes are due until the second spouse dies. Unmarried couples, however, do not enjoy this tax advantage. For those with significant taxable assets, it will be necessary to pursue other avenues to avoid estate tax. One strategy is to purchase life insurance to pay any potential federal and state estate taxes. The surviving partner must own the insurance to avoid it becoming part of the estate of the deceased. Therefore, each partner should own enough insurance to pay anticipated taxes on the assets of his or her partner.

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