

Financial Planning for Unmarried Couples

Married couples receive more than 1,000 benefits, rights and privileges that same-sex couples do not. If you are in a committed relationship with a same-sex partner, it is important for you to understand the implications of the lack of any federal recognition of your relationship. This article highlights some of the primary issues that you should be aware of, and some suggestions to help you navigate them so that you and your partner are as prepared as possible.

Social Security. All eligible workers pay into social security, but only married couples are entitled to spousal and survivor benefits. Spousal benefits allow a married person with no earnings history to collect an amount equal to half of the working spouse's retirement benefit. If the working spouse dies, the other spouse becomes eligible for survivor benefits equal to 100% of the worker's benefit amount. The only benefits that an unmarried partner will receive from social security are those based on their *own* contributions into the system.

Individual Retirement Accounts (IRA). Contributions to a traditional IRA provide a tax deduction in the year of the contribution. Any taxes on the income earned in the account are also deferred. When funds from the account are withdrawn or distributed, they are taxed as income. If only one spouse within a married couple is working, the couple can still fund an IRA for the non-working spouse through a "spousal IRA." There is no such thing for an unmarried couple – the non-working partner cannot make contributions to a tax-deferred retirement account without their own earnings, even if they are staying home to take care of the couple's child.

Inherited IRAs are also different for married versus unmarried couples. If someone inherits an IRA from their spouse, they can roll those funds directly into their own IRA and don't have to pay tax or take distributions until age 70.5. An unmarried partner who inherits an IRA must begin taking distributions (and paying income tax on them) by the end of the year following the year of the owner's death.

Breaking Up or Dying. Idaho is a community property state which means that all assets that come into a household during marriage (with some special exceptions) are considered community property and owned by both spouses. If a couple gets divorced those assets must be divided equitably, and if one spouse dies half of those assets belong to the survivor. What happens when an unmarried couple breaks up? If they don't have some kind of partnership agreement, they have to figure out how to divide up the assets themselves at a time when there may be serious emotional distress and anger. This is particularly complicated if one partner has stayed home to take care of a child while the other has been earning money (and contributing to personal retirement accounts, etc.). If they can't agree, they may end up in an expensive legal battle.

Likewise, if one partner dies unexpectedly the survivor may face a multitude of challenges. For example, assume that Beth and Ruth have lived together in Ruth's house for 15 years and Ruth dies. If Ruth does not have a will leaving the house to Beth, Beth has no rights and could very well be kicked out of the house by Ruth's parents (as next of kin). Even though Ruth was not on speaking terms with her parents, they had a legally recognized relationship, while Ruth and Beth did not.

Unlike the social security and IRA issues, issues related to breaking up or dying *can* be addressed for same-sex couples through agreements and contracts. An unmarried couple can develop a cohabitation agreement that spells out what happens to personal property in the event of a break-up. The time to craft such an agreement is at the beginning of cohabitation when the partners are open and trusting, rather than at the end when they might be hurt and resentful. All unmarried partners should also have wills that specify how their property should be distributed upon death. Financial assets can also be distributed by putting a beneficiary and contingent beneficiary on all accounts.

There are numerous other issues that same-sex couples need to consider as they set up house together. Should they have life insurance on each other? Can one partner be on the health benefits plan of the other, and does that make sense? Do they have health care powers of attorney, living wills, and durable powers of attorney so that one partner can make decisions for the other if necessary? Thinking through these issues and getting the right documents in place can relieve enormous emotional and financial stress when the unexpected happens.

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