

LATER-LIFE MARRIAGE: SHOULD YOU TAKE THE PLUNGE?

In the past, an individual's life expectancy was usually less than 70 years so the issue of remarriage later in life was not a topic of discussion. However, with longer life expectancies, times have changed and the desire to find a new life partner has increased dramatically.

While getting married later in life or becoming involved in a relationship can offer a renewed happiness and purpose, it often brings with it many complications. Oftentimes, couples who unite later in life are faced with the question of whether to wed or not. While pondering this question, it is critical that the advantages and disadvantages to a later-life union be fully explored. Many of the areas which need to be considered affect the individual's financial picture and whether remarrying will alter his/her financial situation.

Generally, the law favors marriage. Marriage often provides the surviving spouse with pension and healthcare benefits, as well as entitlement to the deceased spouse's increased Social Security benefit. For example, at retirement age, a widow can claim her late husband's Social Security benefits if it is higher than the benefit she herself earned and she does not remarry before the age of 60.

There are other advantages married couples receive, which include the following:

1. Surviving spouses have the ability to roll over a deceased spouse's IRA tax free if the surviving spouse is named as primary Beneficiary. This permits the surviving spouse to delay negative income tax consequences until he/she withdraws money from the IRA.
2. Married couples receive a \$500,000 income tax exclusion when they sell their home, even if the home was owned by one spouse.
3. In Pennsylvania, if an individual does not have a Healthcare Power of Attorney, the spouse is authorized, by statute, to make medical treatment decisions.
4. The marital deduction provides an unlimited deduction against Federal Estate Tax when a surviving spouse receives outright ownership or substantial control of an inheritance from a deceased spouse.
5. Married couples can transfer assets freely between themselves without triggering any penalties for purposes of qualifying for Medicaid if a spouse resides in a skilled nursing facility.

On the contrary, unmarried partners do not have laws that clarify or favor their relationship. Numerous tax and government benefit advantages, which are available to married couples, are out of the reach of unmarried couples. Unmarried couples do not enjoy the same benefits as described above for married couples. In contrast, the unmarried couple experiences the following:

1. Loss of the IRA rollover advantage in the event of the death of an unmarried partner. As a result, the IRA benefits would be immediately taxable.

2. Upon the sale of a home, an unmarried partner can only receive a \$250,000 income tax exclusion.
3. Unmarried partners in Pennsylvania cannot make healthcare decisions for their partner without a healthcare power of attorney. In Pennsylvania, adult children are next in line to make healthcare decisions for the parent. That may not be a problem unless the children and their parent's partner have differences. In those, instances, the children's wishes will rule.
4. Unmarried partners do not enjoy the advantage of unlimited deduction against Federal Estate Tax since this is reserved to married couples. As a result, under the current law, for an individual whose assets exceed \$4 million and names his/her partner as the Beneficiary of his/her Estate, the surviving partner will be burdened with Federal Estate Tax.
5. If one unmarried partner makes a gift to the other partner and needs to qualify for Medicaid to pay for a skilled nursing facility, Medicaid will penalize the partner who made the gift and thus not pay for the unmarried partner's nursing home until the penalty period has passed.

Deciding whether or not to marry later in life is a personal decision. It is important to plan for your desired life style, married or unmarried, to avoid potential pitfalls. Due to the complex issues surrounding later-life relationships, consider consulting a qualified Elder Law Attorney.

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