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Property Ownership Issues Facing UNMARRIED COUPLES

When it comes to owning property, unmarried couples face some unique financial and estate issues. For example, if one partner dies, property does not automatically pass to the surviving partner, as it would to a spouse. And, if one partner transfers property to the other partner, there could be tax consequences. Understanding these matters is the first step in protecting your property. Consider the following information concerning these three types of property:
1) income, 2) property with a deed of title, and 3) untitled possessions.

Income

When you first enter a relationship, you have the sole right to your personal income. However, in many states, a spoken or implied agreement to share income with your partner may support his or her claims against you if you separate. This is the basis for many palimony suits. Without a written contract, you could spend a great deal of time and money contesting your rights in court.

Property with a Deed of Title

Unmarried partners who share property with a deed of title such as real estate, bank accounts, vehicles, and securities may choose between two legal forms of ownership: **joint tenancy with right of survivorship** or **tenancy in common**.

Joint Tenancy with Right of Survivorship. When you own property as joint tenants, you share equal rights to the entire property. Unless you have divided the cost equally, it is wise to document how much you have each contributed. Otherwise, there is no proof if one partner paid more than the other. According to the law, you are both equal owners, and if the relationship ends, you could each receive half of the property. On the upside, because you don't own separate shares, creditors may find it difficult to claim joint property, although laws vary from state to state.

Most states recognize the right of survivorship, although some may require that it be stated explicitly in the title or deed. This means that, upon the death of one partner, the property would automatically pass to the surviving joint owner, thereby avoiding **probate**.

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Monitoring Retirement Fund Menus
CAN IMPROVE PERFORMANCE

The monitoring of defined contribution (DC) retirement plan menus by plan sponsors in order to identify underperforming funds and replace them with more attractive funds can provide value to plan participants, according to new research published by Morningstar Investment Management.

In a white paper entitled "Change Is Good," released on April 15, 2019 researchers observed that when retirement plan sponsors evaluate the quality of mutual fund investments offered to plan participants, they may occasionally decide to replace one fund with another. The authors noted that previous studies of plan sponsor replacement decisions have suggested that the decision to replace funds is frequently motivated by historical performance data relative to a benchmark that does not predict future performance. They pointed out, however, that even though this monitoring activity is an important function of investment fiduciaries, little is currently known about whether adding and removing mutual funds from a plan menu is valuable for participants.

To investigate the monitoring value provided by plan sponsors, researchers analyzed a unique longitudinal dataset of plan menus from January 2010 to November 2018 that includes 3,478 fund replacements across 678 DC plans. For each plan, the analysis compared the menus for two different periods, employing a matching criterion to determine when a fund was replaced. A fund was deemed to have been replaced if it did not exist in the later menu, and a new fund was added in that later menu that was of the same investment style, such as bond or equity.

The results indicated that, on average, the replacement funds had better historical performance and lower expense ratios, as well as more favorable comprehensive metrics based on star and quantitative ratings, than the funds they replaced. The analysis also showed that the largest performance difference between the replacement and replaced funds was for the five-year historical returns. According to researchers, this finding suggests that the five-year historical reference period is the one that carries the most weight among plan sponsors.

In addition, the analysis revealed that the future performance of the replacement fund was better than the fund being replaced at both the future one-year and three-year time periods. "Our findings suggest that monitoring plan menus can have a positive impact on performance," the authors concluded.

Researchers cautioned, however, that while they were able to analyze certain factors related to the outperformance of replacement funds, the primary drivers of the outperformance remain unclear, because the dataset provided no information about the decision-making process plan sponsors use to determine whether a fund should be replaced, or about other salient factors, like the relative importance of the fund being replaced or how long the fund has been in the plan. Thus, the study's authors added, although the analysis suggests that monitoring fund menus can improve performance, "more research on why this effect occurs is warranted." **20/20**

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Joint tenancy is easy to establish. You simply state both names on the title or deed and note that ownership is by joint tenancy with right of survivorship. Both signatures are required to sell the property, which could create problems if the relationship ends or one partner becomes incapacitated without having named a **durable power of attorney**.

Of course, jointly owned property has tradeoffs, as well. It may be subject to both estate and gift taxes. The entire value of the property is included in the estate of the first to die, unless records can prove the surviving partner contributed to the cost. In addition, any property one partner transfers to the other partner could be subject to gift taxes. Be cautious about adding your partner's name to an existing deed. Unless there has been a fair exchange of value, the Internal Revenue Service (IRS) may consider this a gift, and tax it accordingly.

Tenancy in Common. In most states, property purchased by two or more co-owners automatically creates a tenancy in common, unless the title or deed states otherwise. A tenancy in common allows you to own unequal shares of a piece of property. Because percentages are stated on the title or deed, property held this way might be an easier target for creditors, since a claim can be issued against a specific share of the property.

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The ABC's OF ESTATE PLANNING

Many people share the common misconception that estate planning is something only very affluent individuals should do before they die. However, estate planning is important, even for those individuals of modest means. Planning for the disposition of one's assets upon death can offer significant benefits to all parties involved.

The greatest benefit may lie in knowing that your wishes will be respected. Naming your heirs—and relieving them of unnecessary costs and stress by carefully designating which assets they will receive—is preferable to having a court make such decisions for you.

The estate planning process not only includes designating your heirs, but it may also include establishing vehicles—such as trusts—to help protect your assets. This will help ensure your assets go to the people you care about, and can help minimize taxes. In the event of mental or physical incapacity, an estate plan can designate people to help care for you and your property through a durable power of attorney and a health care proxy. You may also want to include a living will among your estate planning documents, so your health care providers know your wishes regarding the possible use of life-sustaining measures in dire situations.

Put It in Writing

A will is the basis of any estate plan, whether it is simple or complicated. In drawing up your will, consider using the services of a qualified attorney. Although you may think you can do it yourself, an estate planning professional has the experience to ask questions you may not have considered.

Name Names

The first name to settle on is that of your executor. Next will be the beneficiary(ies) of your insurance policies. Beneficiaries, and contingent beneficiaries, of assets in retirement accounts, such as pensions, 401(k) plans, and Individual Retirement Accounts (IRAs), are kept on record with the retirement plan administrator, and these nominations take precedence over your will. Retirement assets pass directly to the beneficiaries, bypassing probate court. If the estate of the deceased is named as the beneficiary of an insurance policy, the policy's proceeds are included in the probate estate.

What about Estate Taxes?

Assets transferred to a spouse will not be subject to estate taxes, regardless of value. However, transfers to other beneficiaries, such as children, may be subject to estate tax if they are in excess of the applicable exclusion amount ($11.4 million in 2019).

Certain advanced planning tools can be used to fund the payment of estate taxes, such as life insurance and trusts. For high value estates, a gifting program is often used to reduce the value of the estate, thereby minimizing taxes. For specific guidance, consult your qualified tax and legal professionals.

Regardless of your net worth, there are a number of reasons why you should consider an estate plan. Take steps now to help ensure your wishes will be followed and that provisions will be made for your dependents and loved ones. **20/20**

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Tenancy in common allows you to give or sell your share to anyone at anytime without the co-tenant's consent, although property transfers without a fair exchange of value may be subject to gift taxes. Unlike joint tenancies, tenancies in common are subject to the probate process when one owner dies.

Untitled Possessions

Who gets the TV? Who gets the microwave? To avoid these questions, it's best to own personal possessions separately. Keep records of your receipts. If you do purchase items together, document who owns each item. Written records provide the best evidence of ownership, should the relationship end.

Protect Yourself—Put It in Writing

Without laws to guide the division of your property, it is important to keep detailed records and put all agreements in writing. While you may feel ambivalent about broaching the issues of property ownership, taking these steps now can help avoid tax problems later and ensure fair disposition of your property in the event of separation or death. 20/20

Understanding the Importance OF INSURANCE

An unexpected event such as a death, disability, or other personal loss is certainly not something you can easily plan for. Yet, the financial ramifications could be staggering—not only to you, but also to your family. Therefore, it is important to create a **risk management plan** as part of your overall financial strategy.

Insurance, in all its varied forms, is simply a method for managing risk. In order to plan an effective insurance program, consider what risks you and your family are exposed to and how financial loss would affect you. For each risk exposure, the key elements to consider are the severity and possibility of loss.

All Risks Are Not Created Equal

Some risks may be so small that you decide to accept full responsibility for any potential loss. In insurance language, you "self-insure" for such risks. For example, it is rarely cost-effective to carry collision coverage on a 10-year-old automobile. Collision coverage generally pays actual cash value, and since a 10-year-old car may have little current fair market value (FMV), it is common to self-insure in such cases. In making this choice, you assume full responsibility for any accidental damage you may cause to the vehicle.

In other situations, the risk may be so great (or the cost of a potential loss may be so great) that the best strategy is to try and avoid the risk entirely. You practice risk avoidance in your daily life when you say something is "not worth the risk."

Sometimes, risk can be reduced. For example, installing an automobile anti-theft device or home security system is a strategy to reduce the risk of loss.

Risk Transfer and Risk Sharing

Insurance is a method that allows you to transfer risk you cannot reasonably afford, or choose not to accept. Since you may be unable to afford to rebuild your home in the event of fire, for example, you may choose to transfer that risk to an insurer by purchasing a **homeowners policy**. Even in situations of risk transfer, it is common to share some risk. For example, the deductibles and premiums you pay for insurance are a form of risk sharing whereby you accept responsibility for a small portion of the risk, while transferring the larger portion of the risk to the insurer.

There are other important insurance options to consider, as well. Between the ages of 25 to 35, most married couples are just starting out in life and establishing families and careers. During these years, the death of one partner could seriously jeopardize the surviving spouse's or family's financial future. In such situations, **life insurance** can be used to help create an "instant estate." A life insurance policy death benefit can help provide a continuing source of income, pay off a mortgage, or fund a child's college education.

Additionally, many people give little thought to how they would handle financial responsibilities, such as mortgage payments, car payments, college tuition, and other expenses, if their income suddenly stopped because they were unable to work due to an illness or injury for an extended period of time. **Disability income insurance** pays benefits that can help replace a portion of income, should you experience a qualifying disability.

Taking a closer look at different types of risk that may affect your family can help you answer the following important questions: What should I insure? What type of insurance do I need? How much coverage should I purchase?

Remember, the fundamental rationale behind all forms of insurance is to assess what risks can be shared or transferred on a cost-effective basis. Be sure to consult with a qualified insurance professional to determine the amount of coverage that will best suit you and your family's needs. **20/20**

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