Is It Better to Remarry or Just Live Together?

Finding love later in life may be unexpected and exciting, but should it lead to marriage? The considerations are much different for an older couple with adult children and retirement plans than for a young couple just starting out. Before deciding whether to get married or just live together, you need to look at your estate plan, your Social Security benefits, and your potential long-term care needs, among other things. Whatever you decide to do, you may want to consult a lawyer to make sure your wishes will be carried out.

Here are some things to think about:

- **Estate Planning**. Getting married can have a big effect on your estate plan. Even if you don't include a new spouse in your will, in most states spouses are automatically entitled to a share of your estate (usually one-third to one-half). One way to prevent a spouse from taking his or her share is to enter into a prenuptial agreement in which both spouses agree not to take anything from the other's estate. If you want to leave something to your spouse and ensure your heirs receive their inheritance, a trust may be the best option.
- **Long-Term Care**. Trusts and prenuptial agreements, however, won't keep a spouse from being responsible for your long-term care costs or vice versa. In addition, getting married can have an effect on your or your spouse's Medicaid eligibility. If you can afford it, a long-term care insurance policy may be a good investment once you remarry.
- **The Family Home**. Whether you are getting married

or just living together, before combining households you will need to think about what will happen to the house once the owner of the house dies. If the owner wants to keep the house within his or her family, putting the house in both spouse’s names is not an option. On the other hand, the owner may also not want his or her heirs to evict the surviving spouse once the owner dies. One solution is for the owner of the house to give the surviving spouse a life estate. Once the surviving spouse dies, the house will pass to the original owner’s heirs.

- **Social Security**. Many divorced or widowed seniors receive Social Security from their former spouses, and remarriage can affect benefits. If you are divorced after at least 10 years of marriage, you can collect retirement benefits on your former spouse’s Social Security record if you are at least age 62 and if your former spouse is entitled to or receiving benefits. If you remarry, you generally cannot collect benefits on your former spouse’s record unless your later marriage ends (whether by death, divorce, or annulment). However, if your are a widow, widower or surviving divorced spouse who remarries after age 60, you are entitled to benefits on your prior deceased spouse’s Social Security earnings record.
- **Alimony**. If you are receiving alimony from a divorced spouse, it will likely end once you remarry. Depending on the laws in your state and your divorce settlement, alimony may end even if you simply live with someone else.
- **Survivor’s Annuities**. Widows and widowers of public employees, such as police officers and firefighters, often receive survivor’s annuities.

Many of these annuities end if the surviving spouse remarries. In addition widows and widowers of military personnel may lose their annuities if they remarry before age 57. Before getting married, check your annuity policy to see what the affect will be.

- **College Financial Aid**. Single parents with children in college may want to reconsider before getting married. A new spouse's income could affect the amount of financial aid the college student receives. Some private colleges may even count the combined income of a couple that lives together if they commingle their expenses.

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5 Things to Know to Reduce Your Tax on Capital Gains

Although it is often said that nothing is certain except death and taxes, the one tax you may be able to avoid or minimize most through planning is the tax on capital gains. Here’s what you need to know to do such planning:

What is capital gain? Capital gain is the difference between the "basis" in property – usually real estate or stocks, but also including artwork and collectibles – and its selling price. The basis is usually the purchase price of property. So, if you purchased a house for $250,000 and sold it for $450,000 you would have $200,000 of gain ($450,000 – $250,000 = $200,000). However, the basis can be adjusted if you spend money on capital improvements. For instance, if after buying your house you spent $50,000 updating the kitchen, the basis would now be $300,000 and the gain on its sale for $450,000 would be $150,000 ($450,000 – ($250,000 + $50,000) = $150,000). Just make sure you keep good records of any capital improvements in order to prove them in the event of an audit. (The residence exclusion and the step-up in basis are discussed below.)

How much is the tax? It depends, but assume 15 percent federally unless you have either very low or very high income, and whatever your state's tax is (let's assume 5 percent, for a total of about 20 percent). Using those assumptions, the tax on $200,000 of gain would be about $40,000. There are three exceptions. First, if you owned the property for less than a year, you would be subject to short-term capital gains tax rates, which are essentially the same rates as for income tax. Second, if your taxable income, including the capital gains, is less than $37,650 for a single person and $75,300 for a married couple (in 2016), there's no federal tax on capital gain. But beware that the capital gains will be included in the calculation and could put you over the threshold. Third, if your income is more than $415,050 for a single person and $466,950 for a married couple (in 2016), the federal capital gains tax rate is 20 percent, bringing the combined federal and assumed state rate up to just over 25 percent.

The personal residence exclusion. You may exclude up to $250,000 of gain on the sale of your personal residence and if you're married you can exclude $500,000. To qualify, you (or your spouse) must have lived in and owned the house for at least two out of the five years prior to the sale. Those two years don't have to be the same. For instance, if you lived in the house from 2012 to 2014 and owned it from 2014 to 2016, but rented it out, you could still qualify for the exclusion. If you are a nursing home resident, the two-year requirement is reduced to one year.

Carry-over basis. If you give property such as a family heirloom or real estate to someone else, they receive it with your basis. So, if your parents bought a vacation home many years ago for $25,000 and now its fair market value is $500,000, if they give it to you, your basis will also be $25,000. If you sell it, you'll have a gain of $475,000 and no personal residence exclusion, unless you move in for two years first. The combined state and federal tax would be $118,750.

Step-up in basis. On the other hand, the basis in inherited property gets adjusted to the value on the date of death. In the example of the vacation home, if your parents passed it on to you at death rather than giving it to you during life, the basis would be adjusted to $500,000, potentially saving you $118,750 on its sale. On the other hand, depending on the size of your parents' estate, it may be subject to estate tax, which would be payable within nine months of their death, while the tax on capital gain would not be due until you sold the property, perhaps decades in the future. President Obama has proposed getting rid of this so-called "step-up" in basis. His reasoning is that it is regressive, benefiting people with property, and the more property they have, the more tax they save. But an argument for retaining the step-up rules is that they can save a tremendous amount of administrative hassle. If you inherited stock from your father that he inherited from his mother, it may be impossible to establish what it was she paid for it. It's much easier to determine what it was worth at your father's death.

Offsetting losses. If during the tax year you realized capital gain through the sale of property, you can offset it with capital losses. Say, for example, you sell your home and realize a lot of gain. You could also sell some stock that has gone down in value, creating a loss that offsets some of the gain on the house sale. In some instances, you can carry over loss from one tax year to the next to offset future gains.

By understanding and considering these rules, you can save on capital gains taxes and avoid a number of possibly expensive mistakes. Talk to your attorney or financial planner today about ways to lower or eliminate your capital gains tax.

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Nursing Home Discrimination Against Medicaid Recipients

While it is illegal for a nursing home to discriminate against a Medicaid recipient, it still happens. To prevent such discrimination, nursing home residents and their families need to know their rights.

The potential for discrimination arises because Medicaid pays nursing homes less than the facilities receive from residents who pay privately with their own funds and less than Medicare pays. Nursing homes are not required to accept any Medicaid patients, but Medicaid payments are a steady guaranteed payment, so many nursing homes agree to accept Medicaid recipients.

When a nursing home agrees to take Medicaid payments, it also agrees not to discriminate against residents based on how they are paying. Medicaid recipients are entitled to the same quality of care as other residents. A nursing home cannot evict residents solely because they qualified for Medicaid.

Unfortunately, discrimination against Medicaid patients does occur, and the discrimination can take different forms. The nursing home may refuse to accept a Medicaid recipient or may require that a resident pay privately for a certain period of time before applying for Medicaid. When a resident switches from Medicare or private-pay to Medicaid payments, the nursing home may transfer the resident to a less desirable room or claim that it doesn't have any Medicaid beds.

There is at least one way that nursing homes can treat Medicaid recipients differently, however. Nursing homes are allowed to switch residents who were privately paying for a single room to a shared room once they qualify for Medicaid. In addition, the nursing home is not required to cover personal and comfort care items, such as a telephone or television. In some states families are allowed to pay the difference to get a private room or the care item. Other states do not allow any supplementation.

If you feel you have been discriminated against by a nursing home, contact your state's long-term care ombudsman or your attorney.

Medicaid's Benefits for Assisted Living Facility

Residents

Assisted living facilities are a housing option for people who can still live independently but who need some assistance. Costs can range from $2,000 to more than $6,000 a month, depending on location. Medicare won't pay for this type of care, but Medicaid might. Almost all state Medicaid programs will cover at least some assisted living costs for eligible residents.

Unlike with nursing home stays, there is no requirement that Medicaid pay for assisted living, and no state Medicaid program can pay directly for a Medicaid recipient's room and board in an assisted living facility. But with assisted living costs roughly half those of a semi-private nursing home room, state officials understand that they can save money by offering financial assistance to elderly individuals who are trying to stay out of nursing homes.

As of May 2016, 46 states and the District of Columbia provided some level of financial assistance to individuals in assisted living, according to the website Paying for Senior Care, which features a "State by State Guide to Medicaid Coverage for Assisted Living Benefits" that gives details on each state's programs. According to the website, the Medicaid programs of Alabama, Kentucky, Louisiana and Pennsylvania are the only ones that provide no coverage of assisted living, although non-Medicaid assistance may be available.

Nevertheless, the level and type of support varies widely from state to state. Prevented from paying directly for room and board, some states have devised other strategies to help Medicaid recipients defray the cost of assisted living, including capping the amount Medicaid-certified facilities can charge or offering Medicaid-eligible individuals supplemental assistance for room and board costs paid for out of general state funds. States typically cover other services provided by assisted living facilities. These may include, depending on the state, coverage of nursing care, personal care, case management, medication management, and medical assessments and exams.

In many states, this coverage is not part of the regular Medicaid program but is delivered under programs that allow the state to waive certain federal rules, such as permitting higher income eligibility thresholds than regular Medicaid does. To qualify for one of these waiver programs, applicants almost always must have care needs equivalent to those of nursing home residents. These waiver programs also often have a limited number of enrollment slots, meaning that waiting lists are common. In some states, the support programs may cover only certain regions of the state. And one state's definition of "assisted living" may differ from another's, or other terms may be used, such as "residential care," "personal care homes," "adult foster care," and "supported living."

If your state does not cover room and board at an assisted living facility, help may be available through state-funded welfare programs or programs run by religious organizations. If the resident is a veteran or the surviving spouse of a veteran, the resident's long-term care may be covered.

For Paying for Senior Care's page on assisted living benefits, including its state-by-state guide to Medicaid's coverage of assisted living facilities, click here.

For more about assisted living communities, click here.

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