

# Money Concerns for Those Remarrying

*What financial factors deserve attention?*

Provided by Hatcher Financial, P.C.

**Some of us will marry again in retirement.** How many of us will thoroughly understand the financial implications that may come with tying the knot later in life?

Many baby boomers and seniors will consider financial factors as they enter into marriage, but that consideration may be all too brief. There are significant money issues to keep in mind when marrying after 50, and they may be important enough to warrant a chat with a financial professional.

**You might consider a prenuptial agreement.** A prenup may not be the most romantic gesture, but it could be a very wise move from both a financial and estate planning standpoint. The greater your net worth is, the more financial sense it may make.

If you remarry in a community property state (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, Wisconsin), all the money that you and your spouse will earn during your marriage will be considered community property. The same goes for any real property that you happen to purchase with those earnings. Additionally, these states often regard extensively comingled separate property as community property, unless property documentation or evidence exists to clarify separate origin or status.<sup>1</sup>

A prenuptial agreement makes part or all of this community property the separate property of one spouse or the other. In case of a divorce, a prenup could help you protect your income, your IRA or workplace retirement plan savings, even the appreciation of your business during the length of your marriage (provided you started your business before the marriage began).<sup>1,2</sup>

A prenup and its attached documents lay everything bare. Besides a core financial statement, the support documentation includes bank statements, deeds, tax returns, and (optionally) much more. The goal is to make financial matters transparent and easy to handle should the marriage sour.<sup>1,2</sup>

If one spouse discovers that the other failed to provide full financial disclosure when a prenup was signed, it can be found invalid. (A prenup signed under duress can also be ruled invalid.) If a divorce occurs and the prenup is judged worthless, then the divorce will proceed as if the prenup never existed.<sup>2</sup>

**You should know about each other's debts.** How much debt does your future spouse carry? How much do you owe? Learning about this may seem like prying, but in some states, married couples may be held jointly liable for debts. If you have a poor credit history (or have overcome one), your future spouse should know. Better to speak up now than to find out when you apply

for a home loan or business loan later. In most instances, laws in the nine community property states define debts incurred during a marriage as debts shared by the married couple.<sup>1</sup>

**You should review your estate planning.** Affluent individuals who remarry have often done some degree of estate planning, or at least have made some beneficiary decisions. Remarriage is as much of a life event as a first marriage, and it calls for a review of those decisions and choices.

In 2009, the Supreme Court ruled that the beneficiary designation on an employer-sponsored retirement plan account overrides any wishes stated in a will. Many people do not know this. Think about what this might mean for an individual remarrying. A woman might want to leave her workplace retirement plan assets to her daughter, her will even states her wish, but the beneficiary form she signed 25 years ago names her ex-husband as the primary beneficiary. At her death, those assets will be inherited by the man she divorced. (That will hold true even if her ex-husband waived his rights to those assets in the divorce settlement.)<sup>3</sup>

In the event of one spouse's passing, what assets should the other spouse receive? What assets should be left to children from a previous marriage? Grandchildren? Siblings? Former spouses? Charities and causes? Some or all of these questions may need new answers. Also, your adult children may assume that your new marriage will hurt their inheritance.

**Are you a homeowner planning to remarry?** Your home is probably titled in the name of your family. If you add your new spouse to the title, you may be opening the door to a major estate planning issue. Joint ownership could mean that the surviving spouse will inherit the property, with the ability to pass it on to his or her children, not yours.<sup>4</sup>

One legal option is to keep the title to your home in your name while giving your new spouse occupancy rights that terminate if he or she dies, moves into an eldercare facility or divorces you. Should any of those three circumstances occur, your children remain in line to inherit the property at your death.<sup>4</sup>

**Hatcher Financial, P.C. may be reached at 602-955-8500.**  
**[www.hatcherfinancial.com](http://www.hatcherfinancial.com)**

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#### Citations.

1 - [nolo.com/legal-encyclopedia/marriage-property-ownership-who-owns-what-29841.html](http://nolo.com/legal-encyclopedia/marriage-property-ownership-who-owns-what-29841.html) [3/17/16]

2 - [blog.credit.com/2015/06/prenup-vs-postnup-which-is-better-117548/](http://blog.credit.com/2015/06/prenup-vs-postnup-which-is-better-117548/) [6/1/15]

3 - [tinyurl.com/j8ncltt](http://tinyurl.com/j8ncltt) [9/7/11]

4 - [usatoday.com/story/money/columnist/brooks/2014/05/20/retire-baby-boomer-divorce-remarry-pension/9171469/](http://usatoday.com/story/money/columnist/brooks/2014/05/20/retire-baby-boomer-divorce-remarry-pension/9171469/) [5/20/14]