

Planning considerations for same-sex couples



In recent years, the United States Supreme Court has extended marriage rights to all Americans, causing many same-sex couples to face the same challenges as any couple considering how they will join their lives together. As they discuss whether marriage is appropriate, they need to weigh a number of factors.

It's important for couples approaching marriage to have in-depth conversations about significant issues, such as investment, tax, estate, and financial implications of making that commitment.

What to consider now

Time-tested principles surrounding couples hold as true for you as for any other couple thinking about an upcoming wedding. You'll want to address questions such as:

- Do you want to combine savings, checking, and/or brokerage accounts?
- If you currently have two homes, do you want to sell both and find a new one? Move into one house or the other? What might be the tax consequences of selling an existing home?
- As a couple, what are your financial goals?
- What will each spouse's responsibility be for current and future debt?
- What will be your combined budget? How will you manage this budget together?
- When is it wise to have a formal prenuptial agreement?



Ask your Financial Advisor for a copy of our report, “Talk money before the wedding bells ring” for guidance on these and many other issues facing couples contemplating their marriage. More specifically, here are some key areas of opportunities you’ll want to discuss.

Taxes

Married same-sex couples can file joint returns at both the federal and state levels. As with many of these financial circumstances, there’s a potential benefit and a potential drawback. Depending on your circumstances, as a couple you may experience a marriage “bonus” or trigger the marriage penalty. Your combined incomes may change your tax bracket, creating or eliminating exposure to certain taxes, exemptions, and deductions.

Also, remember the choice is not simply between filing singly (if remaining unmarried) or filing jointly (if married). Filing as a “head of household” or “married filing separately” may be appropriate depending on your family situation. Your unique facts and circumstances will help guide you and your tax advisor as you evaluate how marriage may affect your combined tax liability.

Health benefits

Some companies have extended health insurance coverage to partners of employees, but at a cost that increases taxable income to the employee. In many cases, same-sex married couples may have the option of electing spousal health insurance coverage without creating additional taxable income.

Fewer employers continue to offer domestic partner benefits for couples who choose not to marry. You should refer your coverage questions to your employer’s benefits area.

Retirement assets and accounts

Same-sex married couples have the ability to make spousal contributions to an IRA. Plus, a surviving same-sex spouse will have a number of strategies available to consolidate or roll over retirement plan assets. When it comes to designating a beneficiary for employer-sponsored retirement assets, a same-sex spouse must provide consent if a nonspouse is designated as beneficiary of retirement plan assets.



Estate plan

Getting married is a good reason to execute or review your estate planning documents. While marriage gives certain rights, you often need to take action to exercise them. So you'll want to work closely with an estate planning attorney in your state to prepare or update wills, trusts, and powers of attorney. Same-sex married couples can also take advantage of the unlimited marital deduction, avoiding potential state and federal estate taxes at the first spouse's death. (Your Financial Advisor can provide a copy of our more detailed report, "Five Most Important Estate Planning Documents.") Your estate planning attorney can guide you to strategies you may want to employ to achieve your objectives and help ensure your family is protected during your lifetime and your assets transfer as efficiently as possible at the time of your death.

Social Security benefits

Same-sex married couples have access to spousal, survivor, and other Social Security benefits. As a couple, you should evaluate claiming strategies that may allow you to optimize your lifetime benefits from Social Security. Ask your financial advisor for a copy of our report "Frequently asked questions about today's Social Security Claiming Strategies." These strategies may change the way you previously considered claiming your Social Security benefits, so consult your Financial Advisor to discuss what options may be open to you. You'll also want to evaluate your overall retirement income strategy to help ensure your combined investment portfolios position you for a potentially more secure and confident retirement.

Divorce

Married same-sex couples who decide to formally divorce have the ability to split retirement and nonretirement assets without potentially incurring income taxes, premature distribution penalties, and gift taxes.

All couples should enter marriage with the understanding a divorce could be a possibility in the future. As a couple, and perhaps with your attorney, consider the merits of a prenuptial agreement if it fits your situation. If you have previously executed cohabitation agreements for the distribution of property in the event of a breakup, you'll want to consult your attorney on whether a new prenuptial agreement is appropriate. Your attorney may also advise you on other financial strategies or techniques you may want to consider before entering into your marriage.



Medical decisions

Married same-sex couples have more certainty about who will be recognized to make medical decisions. Nonetheless, discuss with your estate planning attorney the possibility of a durable power of attorney, health care power of attorney, living will, and other documents to help you implement the rights you will have as a married couple.

Parental rights

Ongoing questions may arise in the area of family law and parental rights. It may be unclear whether a spouse will be deemed the parent of a child born to or by the other spouse before the marriage. Parental rights vary under state law. Same-sex couples who are raising children, and later marry, should work with a knowledgeable family law attorney to learn how marriage will affect parental rights and responsibilities.

Other legal statuses

The Supreme Court's 2015 Marriage Equality ruling did not affect the status of registered domestic partners or civil union partners. Confusion could remain for couples who choose domestic partner or civil union status, because their state may recognize specific rights, but other states and federal agencies, such as the IRS and the Social Security Administration, may not recognize their status as a couple.

What to do now

It's important to build and rely on a comprehensive team of advisors: a tax advisor to evaluate income tax, tax credit, and tax deduction consequences; an estate planning attorney to help assess the estate tax and estate planning implications; and a Financial Advisor to help determine the impact of any changes on your investment strategy and portfolio.

A detailed discussion of your individual concerns, dreams, and goals with your team of advisors will likely produce some clear answers, identify potential obstacles, and uncover new areas of opportunity. Rededicate yourself and your spouse or partner to building a sound plan, based on your needs and circumstances, for your future together.

Wells Fargo Advisors does not offer tax or legal advice.