SESSION V

# Planning for Future Life Events

Mary has a spouse and kids
And a very special niece
That's why she has a will and plans
To make sure they get a piece.

## What will be covered in Session V

### *Estate Planning Lessons*

1. Estate Planning Fundamentals
2. The Bare Essentials of Estate Planning
3. The Matter of Trusts
4. Estate Taxes

### *Money and Relationships Lessons*

5. Widowhood
6. Divorce
7. Marriage and Remarriage
8. Cohabitation

### *Terms to Learn* *(bolded in the text)*

| | | |
|---|---|---|
| Alimony | Estate planning | Pour-over will |
| Basis | Fair market value | Power of attorney (health care) |
| Child support | Generation-skipping trust | Probate |
| COBRA law | Gift tax | Replacement value |
| Codicil | Intestate/intestacy | Revocable |
| Cohabitation agreement | Irrevocable | Stepped-up basis |
| Durable power of attorney (financial) | Living trust | Testamentary trust |
| | Living will | Uniform Transfers to Minors Act |

### *Exercises*

1. Estate Planning Checklist
2. My Estate Inventory
3. My Will Planning/Updating Checklist
4. Letter of Instruction Checklist
5. Postdivorce Housing Analysis

# Estate Planning Fundamentals

Susan is thoroughly confused about estate planning issues. Her eyes seem to glaze over whenever the topic comes up, but she knows she can't be in denial about the subject any longer. She and her husband Ben are both 48 years old. Recently, her best friend's spouse died suddenly and didn't leave a will. This is causing her friend and her friend's children big problems. It's difficult for Susan to think of her house and meager investments as an "estate." She knows that she and Ben had better get wills and maybe do more. But what?

These are her questions:

- What is estate planning?
- Don't you have to be rich to do estate planning?
- Why should I (we) plan our estate?
- What is the first step to take?
- What are the basic estate planning documents?
- What do I (we) need to take into consideration?
- How do I ensure that my wishes are carried out if I become terminally ill?
- Should I (we) appoint guardians for our children in case I (we) die prematurely? How can we do this?
- Are there any trusts that are appropriate for my (our) estate planning goals?

Estate planning is a critical part of the financial planning process. A goal of this session is to help you understand the process and its importance in reaching your goals. In the estate planning process, you want to be assured that your assets, no matter how large or small, go where you want them to go when you pass on. You also want to minimize estate taxation and provide for minor children, survivors (e.g., your spouse), and dependents. Perhaps you anticipate an inheritance yourself that will affect your retirement assets and your future standard of living.

It is extremely common for people to procrastinate in planning their estate. One reason is that it is often viewed as a chore to do when one gets older and children are grown. It also can be time-consuming, and the process can also be overwhelming if the decisions that need to be made and the appropriate tools are not understood.

It is very uncomfortable for most of us to think about death and talk to our families about sensitive topics such as money and our own mortality. Another obstacle for many young families is not knowing whom to name as a guardian for their children, so they avoid the issue altogether by procrastinating.

Following (Exercise V-1) is an estate planning checklist to complete that will help you get started.

> ***Estate planning.*** The process of organizing your financial and personal assets for use during your lifetime and distribution after death in accordance with prevailing laws. It ensures that your wishes are carried out with a minimum of inconvenience and expense to your family. It is an ongoing lifetime process that includes planning for the care of your dependents. Estate planning also includes gifting during one's lifetime.

## What Are Your Estate Planning Objectives?

Objectives of estate planning are personal. They should come from you (and your spouse/partner) and not be dictated by the attorney or other financial professionals you work with. They may include:

- financial security for your spouse/partner and/or self.
- giving your spouse/partner as much responsibility and flexibility in managing the estate as he desires or is capable of, while saving on potential taxes.
- minimizing the headaches and costs of probate.

EXERCISE V-1

## Estate Planning Checklist

| | Yes | No |
|---|---|---|
| 1. I know what will happen to my children/dependents and my property should my spouse and I both die. | ☐ | ☐ |
| 2. My spouse and I each have valid, updated wills. The signed originals are stored (indicate location) ______________________________. | ☐ | ☐ |
| 3. I have checked all of my property titles to make sure that they don't conflict with my will. | ☐ | ☐ |
| 4. I have a clear understanding of the principal financial resources and liabilities of my estate. | ☐ | ☐ |
| 5. I have checked the beneficiary designations on all individual retirement accounts (IRAs) and other retirement accounts to make sure they are correct. | ☐ | ☐ |
| 6. I expect to receive substantial assets/property as a gift or inheritance in the next few years. | ☐ | ☐ |
| 7. I know what papers and records will be important in the event of my death. | ☐ | ☐ |
| 8. I have a separate record of the important papers I keep in my safe deposit box or lock box. The box, the key, and this record are located (indicate location) ______________________________. | ☐ | ☐ |
| 9. I know and understand what types of insurance policies I own. I last checked the beneficiary designations on ______________. | ☐ | ☐ |
| 10. I am aware that life insurance proceeds are subject to federal estate taxes and perhaps even probate (settlement of a deceased person's estate in a court of law). | ☐ | ☐ |
| 11. I have put in writing my wishes regarding funeral and burial arrangements. This document can be found (indicate location) ______________________________. | ☐ | ☐ |
| 12. I have communicated my estate plans to family members and/or friends. Name: ______________________________ Date: ______________________________ | ☐ | ☐ |
| 13. I have determined what assets in my estate will require probate. | ☐ | ☐ |
| 14. I have an estimate of the costs to my estate of possible estate taxes, funeral expenses, probate fees, legal fees, and unpaid property and income taxes. | ☐ | ☐ |
| 15. I have heard about living trusts and will check/have checked to see if this is appropriate for my family. | ☐ | ☐ |
| 16. I have completed separate forms for power of attorney for health care and durable power of attorney for financial matters. | ☐ | ☐ |
| 17. An attorney has reviewed my will in the last 4 years, and it says what I want it to say. | ☐ | ☐ |
| 18. I have prepared a living will. | ☐ | ☐ |





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> ***Probate.*** Proceedings involving a court of law to validate a will, pay debts of the deceased, and distribute the deceased's property to named beneficiaries.

- providing for minor children via guardianship if you were to predecease them.
- ensuring that children are not left too many assets at an inappropriate age.
- providing for enough liquidity so that assets do not have to be sold hurriedly to pay debts or estate taxes (e.g., having a life insurance trust to pay expenses).
- minimizing taxes at time of death and estate taxes after death.
- avoiding potential family conflicts and providing equitable treatment of children.
- organizing important papers and records affecting your estate plan in a place known to family members, including your executor/executrix, and letting them know of your overall estate plan.

> Important point: You can't avoid probate by not having a will. Should you die without a will, a.k.a., die "intestate," one will be written for you. Your assets will be distributed according to state intestacy laws.

Remember that even if you have prepared an estate plan in the past, either your estate holdings or your attitude toward it may have changed since you first developed your plan.

### *Periodically Review Your Estate Plan*

- Have any new children or grandchildren been born since you last reviewed your will?
- Have any of your potential heirs died, married, divorced, or become disabled since your will was prepared?
- Are there any other life-changing events that have occurred that would prompt a revision of your will?
- Have federal or state estate tax laws changed?

To get started, you'll need to collect all the papers that show what you have to leave to heirs. Eventually, you will add a copy of your will, any trust documents, life insurance contracts, and powers of attorney to the estate file. Then you will have to find a safe place to store your estate planning documents. This can either be a fireproof lock box kept in your home or a safe deposit box held at the bank. Keep original documents in one location and copies in the other.

### *What Is* Your *Estate?*

What it isn't is an expensive home that has a fence around it. Your estate is everything you own in your own name, and your share of anything you own with others (e.g., your spouse, children, business partners). This includes the fair market value of real property (e.g., land and buildings) and personal property. It also means investments, retirement benefits, and life insurance policies.

You will need to tally up "today's" net worth, but the actual value of your estate is computed only after you pass on. Knowing now what it adds up to will help determine whether any estate taxes will be due, whether there will be money to pay taxes or final expenses, and whether there should be anything left for heirs.

Here is a more comprehensive checklist of what you should count in an estate inventory:

- ☐ Real estate
- ☐ Securities (stocks, bonds, and mutual funds)
- ☐ Interest and dividends you're owed that haven't been paid
- ☐ Bank accounts
- ☐ All tangible personal property (e.g., car)
- ☐ Life insurance policies you own
- ☐ No-fault insurance payments due to you
- ☐ Annuities paid by contract or agreement
- ☐ Value of any qualified retirement plan, including IRAs and 401(k)s
- ☐ Unpaid judgments from lawsuits
- ☐ Income tax refunds
- ☐ Forgiven debts
- ☐ Closely held businesses

Complete Exercise V-2 (page 150), My Estate Inventory. You may find it helpful to refer back to the

Net Worth Statement that you prepared in Session I, page 24, to jog your memory about what you actually have.

This is what the columns in Exercise V-2 mean:

*"What I own"* refers to everything discussed on the previous page.

*"How I own it"* refers to how you hold title to the property (next topic to be discussed.)

*"Percentage owned"* refers to the part of an asset you own. You may own half your house, all of Aunt Gertrude's silver broach, and one-quarter of a flower business.

*"Net value"* is the value of an asset owned minus what is still owed on it. Example: Your home is worth $300,000 and you have a $100,000 mortgage on it.

$300,000 – $100,000 = $200,000 net value

> Note to married women: More than likely, your net worth is not the same as your husband's. Your net worth and estate inventory statement will indicate:
>
> - how much money you have to bequeath to your heirs, and
> - what your financial situation would be in the event of widowhood or divorce.

## It's All In a Name— The Name on the Piece of Paper . . .

Depending on the state you live in, there are three basic ways to hold property. The property can be your primary residence, your beach cottage, your flower business, or anything else of value that you have bought alone or with another person.

### *Types of Ownership*

*Sole ownership.* This is property owned solely by an individual. It is also known as outright ownership. When the owner dies, the property passes to heirs according to his or her will. However, solely owned property with a designated beneficiary(s), such as IRAs and life insurance, passes automatically to the beneficiary.

*Tenancy in common (TC).* Two or more persons own the property in distinct and separate shares. The shares need not be equal, and each "tenant" can will his or her shares to whomever he or she likes. The share does not pass automatically to a spouse or other tenant(s). An owner can sell his or her share without the consent of the other owner(s).

*Joint tenants with rights of survivorship (JTWROS).* The property is owned by two or more tenants together, and each agrees that if one of them dies, his or her shares automatically pass to the other(s). As with TC, a tenant can sell his or her share without the consent of the other.

Two other forms of ownership—"community property" and "tenancy by the entirety"—are available in some states. A third form of ownership, used often in elder law, is "life estate/remainder."

*Community property (CP).* The property and debts acquired by a married person in the CP states: California, Louisiana, Arizona, Nevada, Texas, Washington, Wisconsin, Idaho, New Mexico, and Puerto Rico. CP is owned 50/50, regardless of which spouse's name appears on the title. If one spouse dies, his or her half of the CP and all separate property are distributed according to the will or the state's intestacy law. It does not automatically pass to the surviving spouse.

*Tenancy by the entirety.* A type of ownership available to married couples in some states. Property is owned the same as in a joint ownership. However, it cannot be sold without the consent of both spouses. Upon the death of one spouse, it passes automatically to the surviving spouse.

*Life estate/remainder.* The life tenant has the right to the use and income on the property for so long as the life tenant lives and the remainderperson is entitled to the entire property upon the death of the life tenant. This is commonly used in Medicaid planning. (A remainderperson is an individual who has the right to possession or ownership of the property after the estate holder dies or surrenders the life estate.)

EXERCISE V-2

## My Estate Inventory

| What I own | How I own it | Percentage owned | Net value |
|---|---|---|---|
| *Example:*<br>Home<br>4 Penndale Lane<br>Morristown, NJ | JTWROS*<br>with<br>Ben | 50% | Property value:<br>$325,000<br>Mortgage owing:<br>$75,000<br>Net Value:<br>$250,000 |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

*Joint tenants with rights of survivorship (see page 149).

### *What Is Probate?*

In some states probate is a relatively simple court-supervised procedure for validating a will, paying the bills of the decedent, and distributing his or her property. In other states, this may not be the case. Procedures and costs vary from state to state.

The probate procedure does not apply to property that goes directly to heirs through beneficiary designations (such as life insurance and pension benefits), property titles (such as joint ownership with right of survivorship), or trust agreements. However, many people do have financial assets and personal property items that have to be transferred to beneficiaries by probate. The heirs for these items are designated by a will or, if there is no will, by the intestacy laws of the state.

### *How Does Probate Work?*

After you pass on, your executor—sometimes working in tandem with a lawyer—will:

1. File your will in the probate court of the county where you reside. (Depending on where you live, the court that handles probate is called the "probate" or "surrogate" court.)
2. Inventory your assets and your debts.
3. Send a formal notice to each of your heirs saying that your will has been filed for probate. (If anyone wants to contest the will, he or she would do so at this point.)
4. If no one contests the provisions of your will, the judge will approve the will.
5. Your executor then pays any debts owed by your estate (including estate taxes) and distributes the remaining property to your heirs.

### *Estate Distribution Methods*

There are six common ways to distribute your assets from your estate, and none of them are perfect:

*Do nothing.* Dying without a will is called dying **intestate**. When you die intestate, the probate court distributes your estate according to the intestacy laws of your state. The result may be contrary to your wishes and the needs of your family and heirs.

*Create a will.* A will is a widely used document to distribute assets. Remember, however, a will does not avoid probate. During the probate process, your family and heirs may not have access to your assets. In addition, your estate matters may become public record.

*Create a living trust.* This is also known as a revocable (changeable or cancelable at any time) inter vivos trust that permits you to place assets into trust while you live (see page 159).

*Establish joint ownership.* Joint ownership of assets, such as a home, car, or investments, is a common way to transfer property. Upon your death, your ownership is immediately transferred to your surviving co-owner. Although these assets avoid probate, there can be other problems such as loss of the stepped-up cost basis of securities and real estate when they are sold, disinheriting your children from a previous marriage, having your assets exposed to your co-owner's debts or obligations, and forfeiting an opportunity to fully use each co-owner's estate tax exemption. Property owned jointly with someone other than your spouse does not escape estate taxes.

> ***Stepped-up basis.*** When you inherit assets that have risen in value over the years, your tax basis typically is the value as of the date at your benefactor's death, rather than what your benefactor paid. An asset's value generally is "stepped-up" to the value as of the date of death.

*Give your assets away.* Gifting can be beneficial, but if you need the money later, it's gone. You can give up to $14,000 (in 2015) to as many individuals as you want in a year, $28,000 if you are a couple. This amount is indexed periodically for inflation.

*Designate beneficiaries.* Assets such as insurance policies, retirement plans, and some bank accounts let you name a beneficiary. When you die, these assets are paid directly to the person you named as a beneficiary without probate unless the beneficiary is your estate.



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# The Bare Essentials of Estate Planning

A basic estate plan can help save money, not only legal fees, but expensive probate delays, and ensure that your assets are distributed the way you wanted. A minimum estate plan should consist of the following four documents:

## 1. A Valid and Up-to-date Will

It's common knowledge to most adults that preparing a will is important. But surprisingly, many of us do not have wills. Do you? A will specifies exactly how your estate is to be divided, who your beneficiaries will be, and who is to be your executor/executrix (personal representative) to settle your estate and distribute your worldly goods.

To be valid, a will must conform to your state's rules. This is important to know if you are planning to relocate to another state after retirement. Your local bar association or area agency on aging can give you guidance here.

### *You can create a will in three ways:*

- Ask your lawyer to draft a will for you.
- Use a step-by-step legal guide or computer program to draft your own will.
- Use a standard fill-in-the-blank will form.

### *What should you do?*

Most experts agree that using a lawyer who specializes in wills and estates is smart and probably essential if your estate is at all complicated, involves real estate, or includes any bequests that might be challenged in court. One disadvantage may be cost, since a complicated will can be expensive. However, simple wills are generally reasonably priced.

If you use a guidebook or computer program such as those published by Nolo Press (www.nolo.com) to write your own will, you can spend less for a perfectly legal document. However, it is recommended that you have a lawyer review your work so that your estate doesn't end up paying in court fees or avoidable estate taxes everything you saved by doing it yourself—and more.

The pros of a fill-in-the-blanks will are easy access (you can purchase them in stationery stores) and economy. The major con is that they're inflexible and cover only the most generic situations, such as leaving everything to your spouse. Is a fill-in-the-blanks will better than no will at all? Maybe. But there's no substitute for sound legal advice.

#### Basic Information in Your Will

- Your full name, date of birth, and place of birth.
- The address of your principal residence.
- A statement that "this will revokes and supersedes all prior wills and codicils."
- The name(s) of the executor/executrix whom you appoint to settle your estate and contingent appointees in case your first choice designee is unable to serve.
- Your instructions for distributing your property. (State each person's legal name and relationship to you and describe the property he or she is to receive.)
- Directions for who is to receive any property not described above.
- Your directions for what is to happen to your property in the event none of your named beneficiaries survive you.
- The names of the persons whose consent you have obtained to serve as guardians of your minor children and/or dependents.



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**Codicil.** An instrument that revokes, changes, or adds to the terms of a will.

### *Making it official*

The steps to making your will official are clearly spelled out in state law (again, check with your local bar association or area agency on aging).

Exercise V-3 (page 154) is a more detailed checklist that covers important things to consider as you prepare or revise an existing will.

## 2. Durable Power of Attorney (for Finances)

Do you have someone you would want to handle your financial affairs or make important decisions for you if you were not able to care for yourself? This can happen only if you appoint that person to act for you by signing a durable power of attorney.

A power of attorney is a legal document that authorizes your agent to act for you in matters as simple as writing or endorsing checks or as complex as selling real estate. A power of attorney can be given to anyone you choose and should be drawn up by a lawyer.

***Durable power of attorney (financial).*** Legal document that appoints someone to handle your financial affairs if you are unable to. The durable power of attorney, which terminates upon your death, can take effect immediately upon signing or can be designed to go into effect upon your incapacity.

Be very careful whom you select for your durable power of attorney. You must have complete faith and trust in this person. Be sure the person you have chosen is willing to serve. Also choose a back-up person (attorney-in-fact) and be sure that they, too, agree to serve.

A springing power of attorney takes effect only at the point that you are unable to act for yourself. In this case, the criteria for incapacity would be predetermined, e.g., two doctors say you are no longer capable. Your attorney could hold this power of attorney document at his or her office until it is needed.

What can happen if you don't create a durable power of attorney? A court-appointed conservator (perhaps not one you would have chosen) would oversee the management of your affairs. It can result in a long and expensive process.

## 3. Power of Attorney (for Health Care)

A power of attorney for health care is sometimes known as a medical power of attorney or health care proxy. It authorizes the person you choose to make medical decisions for you when you are incapable of making them yourself. You specify the conditions when that person would exercise this power.

***Power of attorney for health care.*** A legal document that authorizes an agent you name to make medical decisions for you when you are not able to do so yourself.

You should discuss all your medical decisions, including those for life-sustaining treatment, organ donation, or experimental procedures, with your physician, close family members, and your agent. Make clear exactly what kind of care you would want to receive. If these people understand what measures you want taken, they will be better able to carry out your wishes. Just be sure they are not so emotionally close to you that they couldn't act as you want them to.

You have the right to end or change your durable power of attorney for health care at any time. Review it at least every year or two and whenever there are a major changes in your life, such as a death, a serious illness, or a move to another state. Be sure to give copies to your doctors, your immediate family, your lawyer, and the person you appoint as your agent. You should also keep a copy with your important papers.

It is a good idea to include in your health care document a living will. A living will formally spells out your wishes regarding the use (or exclusion) of medical treatments you specify when you have been

EXERCISE V-3

## My Will Planning/Updating Checklist

Where I stand today Date:_______________________

| | Yes | No | N/A |
|---|---|---|---|
| Is my existing will representative of current times, including births or deaths of any of my intended beneficiaries? | ☐ | ☐ | ☐ |
| Does it reflect changes in tax laws and not contain obsolete sections, including a former state or residence? | ☐ | ☐ | ☐ |
| Will I make any specific bequests to anyone? | ☐ | ☐ | ☐ |
| Have I planned for the disposition of my personal property—furniture, jewelry, and automobiles? (This should not be a part of a will, but on a separate list referred to in the will.) | ☐ | ☐ | ☐ |
| Have I made provisions for the disposition of real estate or business interests? | ☐ | ☐ | ☐ |
| Does my will give directions for asset distribution if an heir predeceases me? | ☐ | ☐ | ☐ |
| Are trusts appropriate for certain beneficiaries, or should they receive assets outright? | ☐ | ☐ | ☐ |
| Is it necessary that particular beneficiaries be provided with periodic income? | ☐ | ☐ | ☐ |
| Does my will take advantage of the unlimited marital deduction (see page 160)? | ☐ | ☐ | ☐ |
| Have I provided for guardianship of my children? | ☐ | ☐ | ☐ |
| Should I give consideration to appointing a "financial" guardian for the children in addition to a personal guardian? | ☐ | ☐ | ☐ |
| Does my will specify that any minor children's share of my estate be held in trust until they reach maturity? | ☐ | ☐ | ☐ |
| Does my will provide for a special needs trust to protect my disabled or incompetent heirs? | ☐ | ☐ | ☐ |
| Have I named an appropriate and capable person or institution to serve as executor or trustee? | ☐ | ☐ | ☐ |
| Have I selected and named in my will an alternate executor, trustee, and/or guardian? | ☐ | ☐ | ☐ |
| Does my will grant specific powers to the executor, as necessary, such as to retain or sell property, to invest trust and estate assets, or to settle claims? | ☐ | ☐ | ☐ |
| Does the ownership of my assets match the provisions of my will? | ☐ | ☐ | ☐ |
| Have I set aside an easy access account to pay my funeral expenses? | ☐ | ☐ | ☐ |
| Does my will name who will receive property if the beneficiary disclaims it? | ☐ | ☐ | ☐ |
| Have I identified where the money to pay debts and estate administrative costs will come from? | ☐ | ☐ | ☐ |
| Will my survivors have enough cash to pay ordinary family living expenses while my estate is in probate? | ☐ | ☐ | ☐ |



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diagnosed as terminally ill, irreversibly unconscious, or in a chronic vegetative state. This document will be used if you are unable to provide instructions yourself at the time medical decisions need to be made.

> ***Living will.*** A written statement that expresses your wishes regarding prolonging your life by artificial, extraordinary, or heroic measures.

A living will is not a substitute for a power of attorney for health care and is often prepared as a combined directive. The living will provides guidance to health care personnel and family members as to your wishes regarding life-sustaining treatment. The health care proxy names the person who is responsible for making health care decisions on your behalf.

Each state that has legally authorized the living will has its own form. Whether you are moving to another state after retirement or staying put, you can get a free copy of your state's living will form from:

> Caring Connections
> 800-658-8898
> www.caringinfo.org
>
> They provide state-specific living will forms at www.caringinfo.org/stateaddownload.

County surrogate offices and area agencies on aging/senior services often have living will forms too. A living will generally must be witnessed by two people.

Under most state laws, there are two events that must occur before a living will can have legal effect:

1. You must be unable to make health care decisions for yourself.
2. For end of life decision-making purposes, you must be diagnosed to be terminal or in a persistent vegetative state or irreversible coma as decided by two doctors, one of whom is your physician.

## 4. Letter of Instructions

A letter of instructions is not as crucial as the other three essential estate planning documents, but your heirs will be thankful if you provide one. A letter of instructions is an informal document (you don't need an attorney to prepare it) that gives your executor information concerning important financial and personal matters. Although it does not carry the legal weight of a will, the letter of instructions is very helpful because it clarifies any further requests (e.g., your personal wishes as far as funeral preparations are concerned) to be carried out upon death, thus relieving the surviving family members of needless worry and guesswork. Be sure to tell loved ones that this document exists and where it is located.

Exercise V-4 will help you with what to include in your letter of instructions.

EXERCISE V-4

# Letter of Instructions Checklist

## *Expected benefits*

Employer: ____________________ Contact name: ____________________

Telephone number: ____________________

| | Yes | No | Amount | Beneficiary |
|---|---|---|---|---|
| Life insurance | ☐ | ☐ | ________ | ________ |
| IRAs | ☐ | ☐ | ________ | ________ |
| Pension | ☐ | ☐ | ________ | ________ |
| Profit sharing | ☐ | ☐ | ________ | ________ |
| 401(k), 403(b), 457 plans | ☐ | ☐ | ________ | ________ |
| Other insurance | ☐ | ☐ | ________ | ________ |
| Social Security | ☐ | ☐ | ________ | ________ |
| Veteran's benefits | ☐ | ☐ | ________ | ________ |
| Other | ☐ | ☐ | ________ | ________ |

## *Contacts*

| | Phone number |
|---|---|
| Employer: ____________________ | ________ |
| Funeral home: ____________________ | ________ |
| Lawyer: ____________________ | ________ |
| Social Security office: ____________________ | ________ |
| Bank: ____________________ | ________ |
| Insurance companies: ____________________ | ________ |
| ____________________ | ________ |
| Accountant: ____________________ | ________ |
| Financial planner: ____________________ | ________ |

## *Your funeral wishes*

Details of arrangements: ____________________

____________________

____________________

Cemetery location: ____________________

Plot deed location: ____________________



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***Special wishes (anything you want heirs to know)***

***Personal papers***

Location of important documents, e.g., will, birth certificate, diplomas, military records, marriage certificate:

***Investments***

List of accounts and location of statements and names of institutions where they are held:

***Bank records***

List of accounts and location of statements/passbooks:

***Credit cards***

Company, name on card, number, and location:



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EXERCISE V-4

## Letter of Instructions Checklist

(continued)

### *Automobiles*

Location of documents (e.g., titles, insurance): ______________________________

### *House records*

Title or deed, location of ownership documents, mortgages, property taxes, insurance, improvements:

______________________________

______________________________

______________________________

______________________________

### *Outstanding loans*

Name on loan, account number, monthly payment:

______________________________

______________________________

______________________________

### *Debts owed the estate*

Name on loan, account number, monthly payment owed:

______________________________

______________________________

______________________________

### *Untitled property (e.g., jewelry, furniture, clothing)*

Location of list of who is to receive particular personal items (should be attached to will):

______________________________

______________________________

______________________________

______________________________

______________________________

Signature______________________________ Date ____________________



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# The Matter of Trusts

In general, a trust can speed the estate administrative process, protect you (or your beneficiaries) from lawsuits and creditors (if it is an irrevocable trust), and allow for fair distribution of assets following death. Specific trusts can be designed to meet all of your estate planning goals.

> ***Revocable.*** The creator can change the terms or cancel the trust at any time.
> ***Irrevocable.*** The creator can never change the trust's terms or cancel it.

*Example:* A trust can specify exact conditions about the distribution of any inheritance (e.g., what age a child can receive it). You can also create a trust that will enable the trustee to distribute trust income to heirs in accordance with their needs. This could be particularly useful if you have a disabled child or if you have children of greatly differing financial means.

A simple will gives your assets to the beneficiaries outright. A trust, living or testamentary, can provide greater likelihood than a will that your exact wishes are carried out.

Depending on the type, a trust may be created to provide you with competent business and investment management, provide for the possibility of your incapacity, and save on estate administration expenses such as probate.

Trusts can be defined as either living trusts or testamentary trusts. A **living trust** is established during the creator's lifetime, usually funded during life, and may continue after the creator's death. A living trust may be revocable or irrevocable. **Testamentary trusts** are created by the will and come into being at the death of the creator. All testamentary trusts are irrevocable.

> ***Testamentary trust.*** A trust set up to manage property for one or more beneficiaries following the death of the creator.

## Living Trusts

A revocable living trust enables you to stay in control of your assets. Therefore, you continue to pay taxes on the trust income. Often called an inter vivos trust, this tool can serve a variety of purposes, including:

- avoidance of probate, but not of estate taxes.
- management of assets in the event you become incapacitated.
- protection of your separate assets in case of divorce.
- protection of your separate assets from a spouse's creditors.
- ability to pass your home to your children after your death, while giving your spouse rights to live in it.
- ease of passing property to your heirs.
- avoidance of multiple probates if you own real property in more than one state.
- protection of privacy in your financial matters.

> ***Inter vivos or living trust.*** A vehicle for managing your property while you are alive and for transferring your property to heirs at death without being subject to probate. A "trustee" manages the property of others by distributing income and principal to the trust beneficiaries according to your instructions.

Table V-1 shows how a living trust is created and functions.

TABLE V-I

***Living Trust***

| |
|---|
| Grantor (you)<br>transfers assets to trust |
| Trust<br>(created by legal document)<br>owns assets |
| Trustee<br>(you or someone you designate)<br>buys, sells, and manages assets in trust |
| Beneficiaries<br>ultimately receive trust assets |

Note: Be wary of "free" living trust seminars and high-pressure salespeople. Usually, these events are nothing more than come-ons for paying a lawyer (or a nonlawyer service) $1,000 or more to write up a living trust. Sponsors often try to push the idea that much of your estate is likely to be gobbled up by estate tax and probate costs unless you set up trusts now to avoid some of the estate tax. They encourage you to buy life insurance to pay the rest of the estate taxes owed. In truth, most people don't have estates large enough to owe estate tax. Be sure you need these benefits before paying a substantial amount for them.

To make maximum use of a trust, it is important that property titles be changed to the name of the trust. For example, the title would say "Susan Jones Trust," not just "Susan Jones." This process may include preparing a new deed for real estate, changing the title on bank accounts, or changing titles on brokerage accounts. A "pour-over" will should accompany the trust agreement to cover property not placed in the trust during your lifetime, so that it will go into the trust at death via a simple probate process.

***Pour-over will.*** A will that directs that the property subject to it (e.g., IRAs, investments) be "poured-over" into a trust upon the maker's death.

Irrevocable trusts are less common and are generally used for very specific purposes such as management of assets going to family members the trust creator (you) believes are too young to manage the property themselves. For persons with estates larger than $5,430,000 (in 2015), a major advantage of an irrevocable living trust is that the assets in the trust are removed from the maker's estate, assuming that the owner is not the trustee.

An irrevocable trust may be set up during your lifetime or provided for in your will. Either way, you give up all control of your funds in order to receive tax advantages. The trustee passes the funds on to your heir(s) as directed by the trust document. Variations include:

- support trusts that provide income for your dependents.
- bypass trusts that provide income to your spouse while holding the assets for children.
- qualified terminable interest property (QTIP) trusts that maximize the marital deduction (see "Spousal Transfers" below) while designating heirs to succeed your spouse. (Often used in a second marriage situation where one or both spouses have children from a former union.)
- insurance trusts that keep insurance proceeds out of your estate.
- charitable trusts that transfer assets to charities and enable you to claim an immediate tax deduction.

## Spousal Transfers

The unlimited marital deduction allows one spouse to pass his or her entire estate, no matter what the size, to the other completely free of federal estate taxes. However, giving all of your estate to your spouse outright may not always be the best method of transferring property.

If your estate was valued at more than $5,430,000 in 2015, consult a financial advisor for guidance about a bypass or "B" trust.

## Uniform Transfers to Minors Act

A convenient way to make a moderate-sized gift to a person under age 18 or 21 (depending upon the state of residence) is to use the Uniform Transfers to Minors Act (UTMA). This allows a person to give property to a minor by transferring it to a custodian who holds and administers the property for the minor until he or she reaches age 18 or 21. The gift may be securities, life insurance policies, annuity contracts, money, or real property. A major advantage of a UTMA, rather than a trust, is the ease of creation and its limited expense. The custodian has broad discretion in managing the property and may expend the property for the minor's benefit. You may name yourself "custodian." You should also name a "successor custodian" in case you or your first choice can't do the job. However, if you name yourself custodian and die before the child comes of age, the money will be included in your taxable estate—as though you hadn't given it away.

***Uniform Transfers to Minors Act.*** Allows transfer of ANY type of property, real or personal, tangible or intangible, to a minor, to be managed by a custodian for the benefit of a minor.

## Gifting Cautions: Titling Property with Others

Some families believe that adding names of family members to the titles of property is a wise move to avoid probate and formalities. Frequently, they have not estimated the associated costs based on the kind of ownership they already have—much of it may not even go through probate. If you or your parents are tempted to add names to titles, do consider the following cautions:

- You can lose control of the asset. Property can be "attached" if the recipient divorces, is sued, or needs cash for his or her needs (accident, illness).
- All owners must sign (agree) if they want to mortgage, remortgage, or sell in the future.
- If one owner dies, that share is in his or her estate, so the surviving co-owner must deal with heirs of the deceased co-owner.
- Homestead credit eligibility (a property tax break) can be lost if the co-owner is not living in the residence more than 6 months a year.
- Giving assets of more than $14,000 (in 2015) in any one year to any one person may create a taxable gift and require a gift tax return to be filed.

# Estate Taxes

There is no secret about estate taxes. The government wants a share of your estate. Estate tax is the federal tax imposed on transfers of assets from one person to another at death based on the value of the decedent's estate assets.

But, before you dive too deeply into this subject, you should know that most people don't have to worry about it, especially now. Most estates are too small to be taxed. Generally, no federal estate tax is assessed if the net value of your taxable estate at death is less than $5,430,000 (in 2015). Estate tax rates are determined by the size of a person's taxable estate. The more you own, the higher the rate.

A prosperous married couple, with a little bit of planning—starting by making sure that at least $5,430,000 in assets is in each spouse's name (2015 figure)—can pass along $10,860,000 tax-free (in 2015) under current estate tax legislation (see Table V-2).

Some states, in addition to federal estate tax, impose a state inheritance or death tax on the property of a deceased person who lived or owned real estate in that state (depending on whom your beneficiaries are). You can specify in your will that your estate should pay whatever inheritance taxes are due to save your beneficiaries from having to sell property they inherit so they can pay the tax.

## Summary of Federal Estate, Gift, and Generation-Skipping Tax Rules

Below is a summary of current estate tax law regulations:

- The estate tax exemption in 2015 is $5,430,000. It will be indexed for inflation in future years.
- The lifetime gift tax exemption is also $5,430,000 in 2015 as is the generation-skipping trust (GST) exemption.
- The top estate, gift, and GST tax rate is 40% in 2015.

***Gift tax.*** A tax imposed by the federal government on the giver of substantial gifts made during his or her lifetime. No tax is usually owed at the time that a tax return is filed unless you have used up your unified credit (the estate tax credit that exempts a certain amount of assets from taxation).

***Generation-skipping trust (GST).*** A trust set up for the benefit of grandchildren. Frequently, it is drafted such that the trust pays only income to the middle generation (the grandchildren's parents). When the middle generation passes on, the trust principal is divided among the grandchildren—the final beneficiaries.

***Basis.*** The value assigned to an asset from which taxable gain or loss is determined. It is generally the original deposit plus additional deposits and reinvested distributions.

People who inherit assets do not have to pay income or capital gains tax on the value of those assets at the time of inheritance. However, once a person inherits assets, any income subsequently received from the assets is treated as regular income or capital gains and subject to federal and state income tax. One exception to this rule is inheriting someone's traditional IRA. Income tax payments are owed because when the deceased first invested the money, the contributions were tax deductible, as was any money the IRA earned. When the money is withdrawn, Uncle Sam wants his due, regardless of the death of the person who opened the account. However, a surviving spouse usually is able to roll over her husband's IRA to her own account and not pay tax on it until she makes withdrawals. Other beneficiaries may be eligible for similar treatment.

Calculating your required distribution from an IRA, beginning at age 70½, no longer requires a degree in math or accounting. Thanks to a 2002 change in government regulations, now all you have to do is add up the total amount in all of your IRA accounts on December 31 of the previous year and divide the amount in your IRAs by the appropriate figure in the Uniform Distribution Table. The table is available at many financial institutions that serve as IRA custodians (e.g., brokerage firms) and online at the Rutgers Cooperative Extension Web site at www.rce.rutgers.edu/money/ira-table.asp.

**Note:** The gift giver pays the gift tax, not the recipient.

**Important point:** No income tax is owed on inherited property at the time of the inheritance.

**This advice bears repeating:** Even people who do not have enough assets to be liable for estate taxes should have a will so that their property is disposed of as they intend. People with estate plans or wills should ask a lawyer to review them to make sure they take best advantage of current tax laws.

## Gift Tax

Congress imposes a tax on substantial gifts made during a gift-giver's lifetime. The law came into being because the government figured out that if only property left at death were taxed, then everyone would give away as much as they could while they were alive—thus, cheating the government of its due. So, to nix tax incentives for making large gifts, gift tax rates are the same as estate tax rates.

If you make a taxable gift, you will not have to pay the tax at that time. Instead, the total amount of the taxable gift must be deducted from your estate tax exemption.

Good news! Gift tax rules contain four exceptions:

***Limited annual tax-free giving***. Federal tax law allows individuals to give annual tax-free gifts up to $14,000 per year (in 2015) to as many persons as they choose. Married couples may give up to $28,000 per year tax-free to as many persons as they choose.

***Example:*** Sharon gives $14,000 to each of her four children ($56,000 total) in 2015. All of these gifts are tax-exempt.

***The marital exemption***. All gifts between a husband and wife in which the recipient is a U.S. citizen are exempt from gift tax, regardless of the value of the gift.

***Example:*** Susan leaves $2 million to her husband Ben. No estate or gift tax is owed.

**Note:** The gift tax exemption is indexed yearly to the cost of living. As the cost of living rises, the gift tax exemption will also rise, but only in increments of $1,000 rounded down to the lower thousand. So in this case, cost of living increases beyond 2013 must cumulatively add up to more than $1,000 before the annual exclusion is raised to $15,000 per year.

The marital deduction can be disadvantageous if a couple has assets worth more than the estate tax exclusion and each leaves everything to the other. The result is that the surviving spouse's estate could grow so large that there is an estate tax bill due at death, when there could be none had they taken advantage of each spouse's exemption. The result is a higher estate tax than necessary.

***Gifts for medical bills***. You can make unlimited gifts in a single year if you make the gifts in direct payment of medical bills for someone else. The requirement is that you must pay the money directly to the provider of the medical service.

*Gift for school tuition*. You can make a gift of school tuition (for any grade or type of school) by making a direct payment to the institution for tuition bills for as many students as you like. This exemption applies to tuition only, not dorm rental fees, college meal plans, or the purchase of books. You cannot reimburse someone who has already paid the tuition bill and receive the tax exemption.

## Your Minimum "Need to Knows" about Estate Planning

- Two principal estate planning goals exist: to pass on as much of your assets with the least amount of taxation and to make sure that your property is distributed the way you want.
- A bare bones estate plan consists of three documents—a will, a durable power of attorney for your financial affairs, and a power of attorney for health care. It's also helpful to include a final letter of instructions.
- Plan to have enough liquid assets so that there is ready cash to pay for funeral costs and other expenses that follow death.
- Whenever there is a federal or state tax law change, have your attorney or accountant review your estate plan to see if any of the changes affect you.
- Put together an estate plan that is appropriate for today. If your circumstances change, e.g., divorce or widowhood, your estate plan can easily be updated to reflect these changes. Review your estate plan at least every 5 years.
- The consequences of not minimizing taxes on your estate (if it is substantial) are huge.
- Make sure that your assets are titled properly to ensure smooth distribution to your heirs. This is especially important if you have a trust.
- Beneficiary and contingent beneficiary designations on IRA and retirement benefits need to be reviewed periodically, perhaps every year or two.
- The Economic Growth and Tax Relief Reconciliation Act of 2001 increased the estate tax exemption in stages and decreased the top estate tax rate.
- A will is the only document through which you can legally name a guardian for your minor children.
- Four legal exemptions to gift tax rules exist: 1) the annual $13,000 exemption (in 2009) to as many people as you want; 2) the marital exemption that allows any amount to be transferred to a spouse; 3) unlimited gifts for medical bills; 4) unlimited gifts for school tuition.
- The biggest estate planning mistake people make is not having a will. This can create a nightmare for your loved ones. No matter how large or small your estate is, don't let this happen to you.

## Money and Relationships

One of the certainties of life is change. Among the things that can change, sometimes abruptly, in a women's life are:

- job/career and employment status (e.g., full-time and part-time work)
- health (oneself and family members)
- amount of household income (increase or decrease)
- amount of assets and debts (i.e., household net worth)
- relationships (e.g., widowhood, divorce)

The next four lessons discuss the impacts of relationship changes on a woman's financial well-being. Four common life transitions are described below:

- widowhood
- divorce
- marriage and remarriage
- cohabitation with a nonspouse.

Financial planning strategies for each life stage are described. The objective of this unit is to help readers prepare adequately for the financial consequences of changed relationships. A change in marital status, for example, need not cause a financial crisis.

# Widowhood

Few events can turn a woman's life upside down as can the death of a spouse. In addition to the shock and grief associated with death and the loss of a husband's emotional support and companionship, there is often less household income than before. Meanwhile, household bills stay the same or even increase if there are high medical or funeral bills to repay.

In addition, there are many decisions that need to be made (e.g., how to invest the proceeds of a life insurance policy), forms that need to be completed (e.g., pensions, Social Security), and suggestions from "helpful" family members and/or financial product salespeople. For some widows, the pressure to do something—anything—becomes unbearable. Decisions are thus made quickly, much like a "hot potato" that must quickly be tossed away.

The financial aftermath of widowhood is especially traumatic for women who have little understanding of their household finances. Suddenly there is this necessary "learning curve" that comes at the worst possible time. Financial knowledge and experience and marketable job skills, on the other hand, are resources for more effective coping.

Below are some suggestions to cope with financial issues related to widowhood.

- Take your time. Do not make any major financial decisions immediately. If you receive an insurance settlement or other payment, place it in a bank certificate of deposit or money market mutual fund until you have time to explore longer-term investment alternatives and/or educate yourself about personal finance.
- Make sure you're covered by health insurance. Assuming you have no health insurance of your own, call your spouse's employer to find out if you're still covered under the company plan. If not, you may be able to apply for continuation of coverage for up to 36 months under the federal **COBRA law** if you apply within 60 days of your spouse's death and pay the premiums. If you've always had employer-provided benefits, the premiums for COBRA coverage can be a shock. However, they will probably be lower than what you could qualify for as an individual. COBRA coverage is available to employees of companies with 20 or more workers.
- Get organized. Among the documents that you'll need to collect are original death certificates (you'll probably need about a dozen); insurance policies; your marriage certificate; birth certificates for dependent children; the deceased's will; retirement plan (e.g., pension) records; and a certificate of discharge from the military, if any.
- Retitle a spouse's or jointly held (with right of survivorship) assets, such as bank accounts, credit cards, auto titles, and the deed to your house, into your name. Expect minor hassles, such as the need to obtain a signature guarantee for some

### Resources that Can Ease a Widow's Financial Distress

- adequate life insurance
- a joint and survivor pension that provides continued retirement benefits
- a stable source of income (e.g., employment or a small business)
- continued health insurance coverage
- savings/investments for financial goals (e.g., children's college)
- low or no household debt
- availability of Social Security survivor's benefits
- benefit counselors in a deceased spouse's human resources department



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documents. Also review your will, retirement savings accounts (e.g., 401(k) or 403(b) plan and IRA), and insurance policies. You may need to change beneficiaries. Consider adding contingent beneficiaries as well.

- Identify and secure financial resources. Some examples include life insurance policy proceeds (both individual and employer-provided coverage); employee benefits (e.g., deceased spouse's 401(k) or 403(b) plan), and Veteran's benefits (e.g., burial in a national cemetery).
- If your deceased husband was employed, contact his employer regarding benefits due survivors. For example, your husband's estate may be due a final paycheck or payment for unused vacation and sick leave. If the death was work-related, there may be worker's compensation benefits. If he was retired and receiving a pension, check with the employer about continued spousal payments.
- Apply for widow's Social Security benefits. A widow must be at least age 60 or have children under age 16 living at home to collect these payments. If a widow collects a benefit on or after turning 60, when she turns 62, she can switch to a payment based on her own earnings record if it will increase her benefit. For additional information, visit the Social Security Administration Web site at www.ssa.gov.
- Review your income tax status and withholding amounts for pension payments and household income. Complete a new W-4 form to make changes. Widows can file federal and state taxes for their spouse for the year of death. They can file jointly for the year of death and for the next 2 years as a qualifying widow. For further information, check Internal Revenue Service (IRS) publication 559, Survivors, Executors, and Administrators.
- Adjust to the situation economically, however painful. This may require selling your home and moving to a smaller place if you cannot afford the payments. Whether you were a full-time homemaker or part of a two-income couple, you are bound to feel the effects of the loss of your husband's income. Develop a spending plan (budget) based on your changed financial status.
- Read and learn about financial planning. Subscribe to a financial publication and/or attend seminars to increase your knowledge. The Cooperative Extension basic investing course Investing for Your Future is available free online at www.investing.rutgers.edu.
- Evaluate your marketability as an employee, particularly if you were a full-time homemaker prior to your husband's death. Marketable skills and increased education are two of the best options available for gaining greater economic security and a higher standard of living. Community colleges and women's centers are good sources of information.
- Spend money and use credit wisely and try not to allow monthly consumer debt payments to exceed 15–20% of take-home pay. It is not uncommon for widows to act out their bitterness about being "abandoned," or to simply try to maintain their previous lifestyle, with credit cards. Another common error is dissipation of insurance proceeds within a few months of a husband's death.
- If you don't have credit in your own name, apply for a secured credit card that is backed by the deposit of a specific amount of money (e.g., $1,000) with the credit card issuer.
- Seek professional advice, where needed, such as an attorney to help with estate tax returns or a Certified Financial Planner (CFP®) for investment decisions. Ask questions about anything that you don't understand or feel comfortable with. There are no "dumb" questions when your future financial security is at stake. If a professional advisor does not answer your questions with patience and empathy, look elsewhere. For the names of local CFPs, call 800-282-7526 or check the Web site www.fpanet.org.

- Don't pay any large debts that your late spouse may have incurred until you check with a lawyer. Debts owed by the deceased are the responsibility of the estate and should be forwarded to the executor. Creditors will simply need to wait until the estate is settled. If you pay bills with out-of-pocket funds or personal savings, you could leave yourself short of necessary cash, both for living expenses and a financial emergency (e.g., car repairs).
- Review whether or not you need the same amount of life insurance as before and make changes accordingly. You might also want to sell assets, such as your spouse's car, if they are no longer necessary and/or require unwanted payments. Resist the urge to sell or give away your husband's "collectible" possessions (e.g., gun or coin collection) without first checking their value.

# Divorce

Like widowhood, divorce can have a profound long-term effect on the financial well-being of a woman and her children. This is especially true for women who lack marketable job skills and/or those who earn no, or a low, percentage of household income. Unlike widows, there are no insurance settlements to receive when a spouse is gone. In addition, household assets and debts must be divided and the cost of retaining legal counsel and/or a mediator is an added expense. A number of well-publicized studies have found that divorce reduces the economic status of women by varying percentages. Many women must cope not only with the effects of divorce but with the financial challenges of single parenthood as well.

The goal of divorce, in many states, is to arrive at a settlement that is "fair and equitable" based on the facts and circumstances of an individual couple's case. For example, the earning ability of each spouse, their respective ages, the amount of their assets and debts, and the length of the marriage are key decision-making factors. In some cases, decisions made at divorce are carried out immediately. For example, if the only property to be divided is a bank account, it can be closed out and divided. Other divorces involve the promise of things that will take place in the future, such as spousal pension benefits, selling a house after the youngest child reaches age 18, or college expenses for children.

The period of time before and after a divorce is stressful for many women. They are expected to make rational and far-reaching decisions at a time of emotional turmoil. This may also be many women's first experience with the court system and hiring an attorney. Expenses often increase when a spouse moves out and sets up a separate household. It is important, however, to keep a clear head and not let emotions (e.g., revenge) result in missed payments, lapsed insurance, or other negative consequences.

Below are some suggestions to cope with financial issues related to divorce.

- Do not sign a property settlement agreement, or any other divorce-related document, that you do not understand or one that you feel contains unfair terms. Consult your own attorney—not your spouse's attorney—before signing anything.
- Estimate the dollar value of your household property using **fair market value**, which is the price at which a willing buyer will buy an item and a willing seller will sell it. **Replacement value**, on the other hand, is the cost of replacing an item (e.g., refrigerator) at current prices. As you and your spouse discuss how you'll divide property, whichever one of you plans to keep the property may think in terms of fair market value, while the other (who will be replacing a piece of property) may think in terms of replacement value.
- In addition to dividing your property, you must determine who will pay which part of debts incurred during your marriage. List all of your and your spouse's debts, including your home mortgage, car payments, and credit card accounts. Usually, one spouse or the other will assume an obligation and agree to "hold harmless" the other party. However, it is important to note that if either party doesn't pay a jointly held debt, creditors may collect from either spouse. Creditors are not bound by any agreement between spouses.
- Parents who are employable must support their children. The court will determine each parent's obligation by applying state **child support** (payments by one spouse to another to meet the needs of the couple's child(ren) after legal separation or divorce) guidelines based on combined gross monthly income and number of children. Courts

generally do not require child support past age 18 unless the parents agree in their divorce settlement that support will continue while a child is receiving post-high-school training or a college education.

- A divorced person is eligible for Social Security benefits based on a former spouse's earnings, even if the former spouse is not yet retired. To qualify for benefits, the marriage must have lasted at least 10 years and both you and your ex-husband must be at least 62 years old. The amount paid to a qualified ex-spouse is a percentage of the benefit due the primary beneficiary. If the primary beneficiary has not applied for benefits, but can qualify and is age 62 or older, the spouse must have been divorced for at least two years. If the ex-husband was already receiving benefits before the divorce, there is no two-year waiting period. If you remarry, you lose the right to benefits based on a former spouse's earnings unless the subsequent marriage(s) also end in divorce. If more than one marriage lasts 10 years or longer, you can elect benefits based on the higher ex-spouse's earnings.

- Like widows, divorced persons may be entitled to continued group health insurance for up to 36 months under the federal COBRA law if they lose their status as a dependent spouse. The cost of coverage cannot exceed 102% of the premium (group rate) paid by your ex-spouse's employer. You must apply for this coverage within 60 days after a divorce is granted.

- A postdivorce spending plan (budget) is essential for making realistic support and property distribution decisions. Some women retain possession of the family home when they are actually unable to afford the mortgage, taxes, and maintenance on their salary alone. They subsequently get behind on payments and may have to sell the house at a loss. Difficult as it might be to accept, a much better alternative is often moving to a smaller home or renting and either selling the house and dividing the proceeds or having a higher-earning spouse "buy you out." Make a list of anticipated income and expenses and adjust the numbers until expenses are no more than what you earn after divorce. Use Exercise V-5, Postdivorce Housing Analysis, to compare the costs of staying in the family home and renting. If you are temporarily living with family members, be sure to make plans based on actual living costs.

- Know the tax consequences of divorce-related decisions. Marital status on December 31 determines your tax-filing status for the year; if you divorce before this date, you must file as either a single taxpayer or head of household. Usually, the custodial parent claims a couple's children as dependents. However, a custodial parent can waive the right to claim dependents as part of a divorce settlement, thus allowing the other parent to do so. A signed waiver statement (IRS form #8332) from the custodial parent must be attached to the noncustodial parent's tax return.

- Child support is neither deductible by the spouse who pays it nor is it included in the income of the recipient. **Alimony** (according to Webster's dictionary, payment made to one spouse by another pending or after legal separation or divorce), on the other hand, is taxable to the recipient and deductible as an adjustment to the payer's gross income. Alimony generally ceases upon remarriage while child support continues until children are grown.

- Protect your child support and/or alimony income stream with life and disability insurance on your ex-spouse. Otherwise, if he dies or becomes disabled, future support payments may cease. If necessary, take ownership of a life insurance policy and/or request third-party notification of nonpayment if there's reason to believe that your ex-spouse would let it lapse or change the beneficiary.

- Consider hiring a professional mediator to resolve issues related to divorce. Mediators are trained not to take sides but rather to work out a settlement that is fair and equitable for both spouses. This includes both financial issues and other

EXERCISE V-5

## Postdivorce Housing Analysis

### *Part 1: Estimated proceeds from sale of home*

| | | |
|---|---|---|
| Estimated sales price | (a) | $________________ |
| Selling expenses | | |
| Amount required to pay off loan(s) in full | | $________________ |
| Fix-up costs connected with sale (paint, minor repairs, etc.) | | $________________ |
| Realtor's commission (often 6% of sales price) | | $________________ |
| Seller's portion of closing costs (often 1% of sales price) | | $________________ |
| Other sales costs | | $________________ |
| Total selling expenses | (b) | $________________ |
| Estimated proceeds from sale (a minus b) | | $________________ |

### *Part 2: Estimated cost of staying in the family home*

| | |
|---|---|
| Monthly mortgage payment | $________________ |
| Monthly insurance payment* | $________________ |
| Monthly property tax payment* | $________________ |
| Electricity, gas, heating oil | $________________ |
| Water and sewer charges | $________________ |
| Garbage pickup | $________________ |
| Yard work | $________________ |
| Homeowner fee, association fee | $________________ |
| Upkeep and repairs | $________________ |
| Other | $________________ |
| Total monthly cost | $________________ |

* These may be included in the mortgage payment; if not, divide the yearly expense by 12 to arrive at the monthly cost.

EXERCISE V-5

## Postdivorce Housing Analysis

(continued)

### *Part 3: Estimated cost of renting*

Monthly costs

| | |
|---|---|
| Rent | $________ |
| Electricity, gas, heating oil | $________ |
| Water and sewer charges | $________ |
| Garbage pickup | $________ |
| Yard work, if it is the renter's responsibility | $________ |
| Renter's insurance | $________ |
| Other | $________ |
| Total monthly costs | $________ |

One-time costs

| | |
|---|---|
| Moving | $________ |
| Deposits (security, cleaning, pet, key) | $________ |
| Utility hookups and deposits | $________ |
| Other | $________ |
| Total one-time costs | $________ |

Adapted from: Ford, R., *Financial Concerns at Divorce* (1990). Rutgers Cooperative Extension Curriculum.

considerations such as child custody. Once these issues are resolved, each spouse's attorney can assist with a final agreement. This is usually a far less expensive and time-consuming process than letting lawyers negotiate a settlement.

- Recognize that 50/50 splits of assets are not necessarily equal. For example, if one spouse takes sole possession of the family home, he or she also shoulders the burden of future property taxes and repairs. The other spouse who, for example, receives the same dollar value in the form of a pension has an asset that will continue to grow tax-deferred. Clearly, this property distribution is not equal even though the dollar value may be the same at the time of divorce.

# Marriage and Remarriage

Getting married or remarried means blending the financial management practices and beliefs, not to mention the income, assets, and debts, of two different people. Sometimes, this is not easy. For example, "spenders" married to "savers" are bound to experience some conflicts. For people who remarry, there are additional challenges, such as relationships with stepchildren and handling child support payments to or from a former spouse.

One of the dilemmas that all couples face is developing a successful way of handling their money and paying bills. Some couples choose to pool their money in one account, while others keep their income and/or assets separate. Another issue is how much each spouse contributes toward household expenses and how much each keeps for personal expenses.

There are also "technical" details, such as who keeps the checkbook register, pays the bills, and makes investment decisions. Although one spouse often assumes these tasks, the other should also be familiar with the couple's cash flow and net worth. If both spouses receive employer benefits, they need to be coordinated. In addition, spending decisions, such as the choice of furniture or a vacation destination, must be made and often involve compromises.

Below are some suggestions related to financial decisions upon marriage or remarriage.

- In two-paycheck households, prorate the amount that each spouse contributes toward joint household expenses. The fairest way to do this is to base each spouse's deposit upon his or her respective income. For example, if a husband and wife earn 65% and 35% of household income, respectively, the husband should pay about two-thirds of family bills and the wife the other third. After all bills are paid, each spouse should have some spending money that is theirs to do with as they please without consulting their partner.

  In one-earner households, a system should be established for providing spending money for the nonearning spouse.
- Take advantage of each spouse's access to retirement savings such as 401(k) and 403(b) plans. Contributions can be written off against a couple's joint income, and both spouses benefit. If cash is limited for retirement plan contributions, fund the plan with the higher employer match. Two other important considerations are the investment options offered by each spouse's employer and the time required for benefits to become vested.
- If the lower-earning spouse is the only one with access to an employer-sponsored retirement plan, he or she should contribute as much as possible. In return, the higher-earning spouse can provide the lower-earning spouse with some additional spending money to offset the reduction in salary or pay for a higher percentage of household expenses.
- Review and revise the beneficiary designations on life insurance policies and pension and retirement plans (e.g., 401(k)s) and name your spouse as primary beneficiary, where appropriate. When you remarry, you'll probably want to provide for your children from your former marriage as well as your new spouse. One way to do this is with a bypass trust or a QTIP trust (see page 160). Income from these trusts goes to the surviving spouse but, upon his or her death, assets are distributed to children or whomever the trust maker designates. In addition, it is important to have a will drafted or revised to reflect your changed marital status.
- Communicate openly and honestly about financial matters with your new spouse. One effec-

tive way to do this is with “I messages.” Instead of blaming or accusing each other (e.g., “You’re spending too much money and we’re going to end up in the poorhouse”), start the message with the word “I” and explain how you feel. An example of an “I message” is “I get worried when we charge more than $300 per month because I’m afraid we won’t be able to pay it back.”

- Set common financial goals, such as the purchase of furniture, or retirement in 2017. Agree to provide support to each other for shared goals and develop an action plan to make each goal a reality. In addition, discuss your childhood financial influences, assets and debts, and money management habits (e.g., use of direct deposit or online banking and debt repayment practices). Money values should also be discussed because they underlie financial decisions.
- Maintain at least one separate credit card in each spouse’s name in case something happens to the other person (e.g., illness or accident) or in the event of a divorce.
- Adjust tax withholding on form W-4 to account for the fact that as a couple your combined income may place you in a higher tax bracket than if you filed as two single taxpayers.
- If health benefits require employee contributions, select the plan that provides the most comprehensive coverage at a reasonable cost. If both plans are of high quality and provide spousal coverage, ask if extra pay is available (from either employer) for waiving coverage.
- Think of each spouse’s individual investments as part of one larger portfolio and diversify accordingly. This is especially true for retirement plans, for which there is a tendency to view investments as “his” and “hers” because they are connected with different employers.
- Weigh the pros and cons of a one- vs. two-paycheck lifestyle. Sometimes, especially when the second income is a lot smaller than the first, it hardly makes any difference at all financially to have both spouses working. Work-related expenses, such as income taxes, child care, and transportation, may consume most of the second income. Of course, there are also other factors to consider such as the self-fulfillment and socialization that work provides.

# Cohabitation

Unmarried couples head well over 6.5 million U.S. households. People choose to live together but not marry for a number of reasons. Some are financial, such as a desire to retain Social Security and pension benefits (common among older unmarried couples) and/or to reduce income taxes (the so-called "marriage tax" requires many couples to pay more taxes than they would if they filed as two single taxpayers).

Other reasons frequently cited for not marrying include concerns about leaving an inheritance for children from a prior marriage, fear of becoming legally responsible for a partner's debts or medical bills, and a personal bias against, or previous bad experience with, marriage or remarriage. For same-sex couples, most states' laws prohibit legally sanctioned marriages.

Nonmarriage relationships lack many of the legal protections afforded to married couples. Thus, special planning must be done to ensure the long-term financial security of each partner. This is especially critical with estate planning. If you haven't clearly stated your property distribution desires in a will, it is almost certain that the surviving partner will lose out. This is because state intestacy laws (which cover people who die without a will) require possessions to be distributed to your closest living relative. In addition, most employer benefits (e.g., health insurance and pensions) cover only employees and a spouse. Unmarried couples often must pay more for health insurance and save more for retirement as a result.

Below are some suggestions for unmarried couples.

- Inquire about joint property insurance instead of paying more for two separate policies. Some major property insurance carriers allow unmarried partners to share a renter's or homeowner's policy. Each party must own part of the property that is covered, however.
- Consider signing a **cohabitation agreement**. This is a legal document, similar to a prenuptial agreement, that is drafted by a lawyer and describes each partner's responsibility for household expenses and who will get what in the event of a breakup.
- Draw up a durable power of attorney and health care power of attorney if you want your partner to make financial and medical decisions for you in the event of your incapacitation. Otherwise, the courts will probably appoint a blood relative to manage your affairs.
- Consider maintaining separate financial accounts to avoid liability for each other's debts and to protect each partner's assets. This means individual bank and brokerage accounts and credit cards. Otherwise, if assets and debts get commingled, one partner's creditors can seize jointly owned assets to repay a debt for which the other partner would otherwise not be responsible. With joint bank accounts, either partner could withdraw all the funds at any time.
- Consider owning some property, such as a house, jointly with a right of survivorship. This allows jointly held assets to pass directly to your partner upon your death, thereby avoiding probate. This is especially important when your unmarried partner does not get along with your family. The surviving partner automatically becomes the sole owner of the property when the other partner dies.
- Understand that if both partners sign a lease, mortgage, or other financial contract, each is responsible for making full payments regardless of what happens to the relationship (e.g., if the relationship ends and one partner moves to another state). Consider whether you can handle joint obligations on your income alone, if necessary.

**Your Minimum "Need to Knows" about Money and Relationships**

- One of the certainties of life is change. Changed relationships (e.g., divorce, marriage) have financial consequences for women and their children.
- When confronting a financial crisis, such as widowhood or divorce, take your time with major financial decisions, such as investing a large sum of money.
- If possible, continue health insurance provided through a former spouse's employer. Check to see if you are eligible for COBRA coverage, which can extend benefits for up to 36 months at group rates.
- Widows should identify and secure resources, such as Social Security benefits, life insurance proceeds, and a deceased spouse's pension and retirement savings.
- A change from married to single status may necessitate painful adjustments such as moving to a smaller home.
- Consult your own attorney before signing a divorce property settlement agreement.
- A divorced person is eligible for Social Security benefits on an ex-spouse's record if the marriage lasted at least 10 years.
- Many divorce property settlement decisions have income consequences.
- 50/50 splits (by value) of marital assets are not necessarily equal.
- Two-earner households could prorate each spouse's contribution toward joint household expenses based upon their respective incomes.
- "I" messages are effective ways to communicate with family members about financial matters.
- Each spouse in a married couple should have at least one credit card in his or her name.
- A two-earner couple should coordinate employee health benefits and retirement plan investments.
- Nonmarriage relationships lack many of the legal protections afforded to married couples and, thus, require special financial planning strategies.



From the 192-page book *Money Talk: A Financial Guide for Women*, NRAES-160
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<u>*Money Talk: A Financial Guide For Women*</u>

## Action Steps

SESSION V: **Planning for Future Life Events**

- ☐ Complete the *Estate Planning Checklist* (Exercise V-I, page 147) to identify estate planning strengths and gaps.
- ☐ Use the *My Estate Inventory* worksheet (Exercise V-2, page 150) to total the value of property in your estate and to provide information about your financial affairs to your heirs.
- ☐ Check that ownership titles on property do not conflict with terms of your will.
- ☐ Contact an attorney to draft a first-time will or review and revise an existing will.
- ☐ Review the *My Will Planning/Updating Checklist* worksheet (Exercise V-3, page 154) to identify planning gaps.
- ☐ Contact an attorney to draft durable powers of attorney for finances and health care.
- ☐ Prepare a living will to express your wishes about prolonging life by artificial means.
- ☐ Prepare a letter of instructions to list requests to be carried out upon your death.
- ☐ Consider using the annual gift tax exclusion to assist others and reduce your taxable estate.



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