REMARRIAGE TOOLKIT

July 2016

8 Financial Tips When Getting Remarried

Nearly one-third of weddings today are second or third marriages. Whether you are single due to divorce or the death of a spouse, marrying again creates an opportunity for a fresh start in life with a new partner.

This toolkit will provide you with actionable tips to give your new marriage the best chance of success, while protecting you in the event of an unhappy ending.

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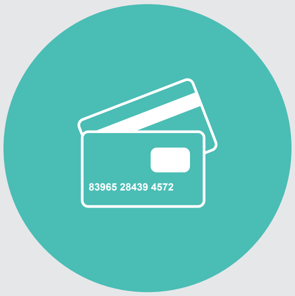
INTRODUCTION

Most second and third marriages occur when a couple is older and each partner brings more wealth into the relationship. Because finances are one of the leading causes of divorce, it's critical to lay the foundation of an honest and open financial life.

Stepchildren and grandchildren can complicate the picture, which can bring emotional and financial stress into the marriage.

You and your future spouse can discuss and consider these issues prior to walking down the aisle. Follow this discussion by talking with your professional advisors—lawyer, accountant and financial advisor.

❑ 1. Disclose Past Financial Issues



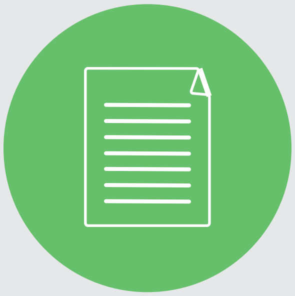
Schedule a time to sit down alone and fully disclose your financial past. Even better, come prepared with a list showing the assets and debts you are bringing into the marriage.

Assets & Debts Checklist

- ❑ Credit card debt
- ❑ Overall debt
- ❑ Bankruptcy filings
- ❑ Overall assets
- ❑ Retirement assets
- ❑ Investments

This exercise is important. If you can talk about money now and address the areas with potential for conflict later, you will be better prepared for financial success and happiness as a team.

❑ 2. Craft a Prenuptial Agreement



Once you understand your financial picture together, it's time to take steps to protect the assets you're bringing into the marriage as well as the rights of your children.

The best way to accomplish this may be with a prenuptial agreement.

Each of you should be represented by an experienced family law attorney to ensure both of your interests are protected. The agreement will need to hold up in the event of a divorce or future dispute.

Collaboratively designing this agreement allows each of you to decide what assets, if any, will be held jointly and what assets will be protected. You will determine how the assets accumulated during the course of the marriage will be divided.

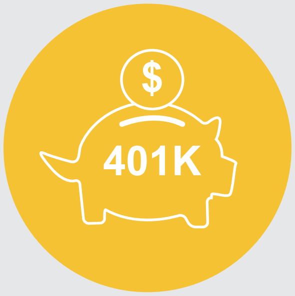
Prenuptial Checklist

- ❏ Will either party receive alimony/palimony?
- ❏ If so, what percentage of income would be considered fair?
- ❏ How will joint assets acquired during the marriage be divided—such as real estate, jewelry, businesses and investments?
- ❏ How will joint debts acquired during the marriage be repaid?

There are still a few states that won't enforce alimony clauses. Any clauses to do with future child support or visitation regarding children from the marriage are generally unenforceable.

In addition, it's wise to create and sign the prenup as far in advance as the wedding as possible. Signing it too close to the wedding can lead to problems down the road.

❏ 3. Consider Retirement Plan Rights



Federal retirement plan law is known as the Employee Retirement Income Security Act (ERISA). It holds that special provisions must be made for you or your future spouse, or both, to waive rights to retirement plan assets.

Waiver of Retirement Benefits Checklist

- ❏ Step 1: Waiver must be stated as a clause within a prenup
- ❏ Step 2: Waiver must be signed *following* the marriage

Without this two-step process, any other clauses or waivers are invalid, and the surviving spouse will inherit retirement plan benefits regardless of the intention of either spouse prior or during the marriage.

These provisions in ERISA are designed to fully protect both spouses' rights to retirement plan benefits.

❏ 4. Add a Waiver of Rights

While a prenuptial agreement is an important component of protecting assets brought into the marriage, it isn't completely bulletproof. There are cases in which prenups are successfully challenged in court and set aside. That litigation can be costly and time consuming.

To solidify the agreement, consider a waiver of rights for the assets you bring into the marriage. As the name implies, this document will completely waive each spouse's rights to the items discussed in the prenup.

Waiver of Rights Checklist

- ❏ Step 1: Add a waiver of rights to the prenup
- ❏ Step 2: Both parties must sign the waiver of rights

If your fiancé hesitates at the idea of signing, that might throw up a red flag. Remember, the waiver might not prevent divorce at a future date, but it will effectively protect any asset you had before the marriage occurred.

❏ 5. Set Up a Trust

Another component to a remarriage asset protection strategy is the establishment of a trust naming your children as beneficiaries. Ideally, in the event of your death, the assets in the trust would then pass to your children.

Trust Checklist

- ❏ Set up a trust to name your children as beneficiaries

There are some states that grant the surviving spouse a portion of the marital estate, including trust assets. In that case, your new spouse could, if he or she so desired, file a suit for a portion of the trust proceeds if the marriage ends in divorce.

This is where the waiver of rights referenced earlier would prevent your spouse from further legal action against those assets.

❏ 6. Keep Assets Separate

As a general rule, assets acquired during the course of a marriage are considered marital property. They are subject to equitable division upon the termination of the relationship unless a prenup states otherwise.

Of course, assets either you or your future spouse own prior to the marriage can be protected by prenups, waivers and trusts.

Keep protected assets separate. Any integration of protected assets with marital assets could have the impact of voiding a prenup.

Asset Protection Checklist

- ❑ Keep detailed records of your non-marital assets. Record the balance before your new marriage. Maintain accurate records of the account through the course of your marriage including any fluctuations in value.
- ❑ Segregate marital assets from non-marital assets. Any money you earn during the course of the marriage should be kept with the marital assets and not added to the non-marital funds.
- ❑ Spend only marital assets. During the course of your marriage, only use the marital assets. In the event you need to contribute money to maintain the non-marital assets, only contribute non-marital funds. If for some reason, this is not possible, keep detailed records of what marital assets were used, how much, when and the purpose.
- ❑ Maintain all non-marital assets in your name. Do not add your spouse to any of the non-marital accounts. Don't retitle any property to include his or her name. Keep those items clear and separate from any marital property.

❑ 7. Revisit Your Divorce Agreement

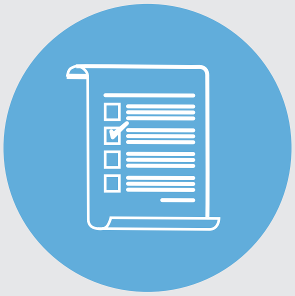
Consult an attorney if you find yourself remarrying after a previous divorce. Depending on the conditions of the divorce settlement, and the law in your state, a new marriage could greatly affect alimony, child support and even the custody of the children.

Divorce Agreement Checklist

- ❑ Review divorce agreement with an attorney before remarriage

It's best to plan for these contingencies well ahead of time to avoid any potential conflicts.

❑ 8. Update Your Estate Plan



Many people wait to do this after the wedding, but you can start the process earlier. Talk with your team of professional advisors for advice on what to update, when and how.

Estate Plan Checklist

- ❏ Update your beneficiaries to reflect your new marital status, including any property you wish to pass directly to your children.
- ❏ Make sure details surrounding medical and end of life decisions are defined in advance. Who will be making financial decisions if you're incapacitated?

You must keep your estate plan up to date to ensure these issues are planned for well in advance.

CONCLUSION

As you start your new partnership, sitting down with your future spouse will help the two of you plan many things, including your financial future.

Being honest and discussing many possibilities will help you talk with your advisors and make choices together. As a team, you can decide how you will handle many issues. Taking a look through the tips listed here is a good start for your conversation.

Pick a time and place where you will not be interrupted and can speak freely. This is a positive, relationship-building experience. Give yourself space to sort through lots of ideas.

Build a Plan with Your Team

As you write down your thoughts and begin making some decisions, you'll find you probably have much of your team already assembled. You're well on your way!

You'll have the beginning of your list and most likely a lot of questions. Reach out to your advisors to start making appointments.

For guidance on your financial plan, for each of you and together, contact JJ Burns & Company. ■

About JJ Burns & Company

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As an independent, boutique firm, JJ Burns & Company provides a high level of service and individual attention that you won't find at impersonal, corporate institutions. We partner with you to develop a comprehensive, customized roadmap that will take you from where you are today to where you want to go.

Getting remarried?
Schedule a complimentary evaluation of your whole financial picture today.

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