

Cojoining Finances

TO JOIN OR NOT TO JOIN — THAT IS THE QUESTION

BY GUY FIORITA



her experience, older and more financially independent adults tend to take this approach. “Keeping assets separate makes estate-planning conversations less complicated and provides comfort to adult children who might not understand their parent’s new spouse’s financial situation. It might

Bank accounts, mortgages, credit cards, investments accounts — in most cases, couples automatically join their finances soon after marriage and then begin filing joint tax returns within the first year of marriage. But for older, more independent adults or those coming into their second marriage, joining finances (or not joining finances) is more complicated and something that should be discussed and studied with a competent financial planner.

According to Julie Ellenbecker-Lipsky, president and wealth adviser at the Ellenbecker Investment Group, there are pros and cons to cojoining finances. “On the pro side, joining finances ensures that the couple has aligned their financial values and goals. It provides confidence for both spouses in terms of financial security. Understanding each other’s finances will also be valuable if one spouse becomes disabled or unable to make financial decisions,” she says.

Jim Marshall, president and founder of Spectrum Investment Advisors, says that cojoined finances make things easier when it comes to managing budgets, paying bills and planning for the future. “From an estate planning perspective, cojoining finances is a useful tool. If one spouse dies, the assets pass seamlessly to the surviving spouse without getting held up in probate. By sharing money, couples are able to share control, which can lead to positive outcomes, and they gain more trust in each other when their assets and debts are pooled. It’s no longer ‘yours’ or ‘mine,’ but ‘ours,’” he says.

Keeping money separate also has its proponents, since it allows for autonomy with spending as well as financial independence. Ellenbecker says that in

make sense to keep assets separated that are earmarked for specific beneficiaries or specific purchases. Inherited assets are often kept separated for estate planning purposes,” she says.

Research seems to show that pooling money in marriage makes a relationship more likely to last. A 2010 study funded by the nonprofit National Center for Family & Marriage Research found that “results show a strong association between moving money out of joint accounts, and consistently keeping money separate, and couple breakup.”

For many, the solution is a mix of the two. According to a survey of 1,000 Americans carried out by TD Bank, 42 percent of those in a relationship who have joint bank accounts also maintain individual accounts. Many use what is known as the three-pot system of couple finance — spouses keep their separate savings accounts for discretionary spending, and they open a joint account where they both contribute to collective expenses like rent and utilities. The three separate pots have the advantage of allowing the couple to ease into cojoining finances at their own pace.

In the end, Marshall says there is no cookie-cutter solution. “Each couple should discuss what is best for their situation,” he stresses, noting that while cojoining finances is often easier when it comes to budgeting and bill payments, it isn’t for everyone. “Many couples prefer to keep their finances separate. If they decide that it’s best for the relationship to keep everything separate, then that’s the answer. If a compromise can’t be reached, it may be a good idea to combine some finances and keep others separate,” he says.



Pass the Prenup

IS A PRENUPTIAL AGREEMENT RIGHT FOR YOU AND YOUR SPOUSE?

BY GUY FIORITA

When Beyoncé married Jay Z in 2008, she reportedly signed a prenuptial agreement that gives her \$5 million for every child she bears to him, plus \$1 million for every year of the marriage if they divorce. It’s a step Roseanne Barr didn’t take when she married Tom Arnold. The two never signed a prenup, and when the marriage ended in a bitter divorce just four years later, Arnold walked off with \$50 million.

That’s Hollywood. In the real world, most people marrying for the first time are young and have very little “pre” to bring to the “nup.” Second marriages, however, are a different story. By this time, one or both parties have probably accumulated assets worth protecting. And that is what a prenup does. It is a legally binding contract between two people who are getting married that essentially puts down in writing what will happen with property and spousal support if the marriage ends in divorce.

“Many states like Wisconsin have default statutes that cover property in a marriage, divorce and death. A prenup is an opportunity for a couple to alter those default statutes in a way that suits their needs or situation better, through legal agreement,” says Eido Walny of the Walny Legal Group.

The clauses of each prenup vary, and some include sunset provisions that allow for the agreement to expire if the marriage lasts a certain amount of time. In general terms, prenups seek to categorize property acquired before and during the marriage as either marital or

individual property or assets into “mine” vs. “ours” groups. If the marriage ends, I get to keep what is “mine,” but everything that is “ours” must be divided.

The agreements can be contoured as the parties wish too. For example, the parties may want to treat each other one way if there is a divorce, but another way if a spouse dies. The parties may have the property division change over time, or they might want to be less forgiving toward one another if the marriage ends over certain reasons, such as infidelity. “Divorce can be messy and expensive,” says Walny. “A good prenup settles a lot of the issues while the parties still like one another, not when they are least likely to agree on anything. Unfortunately, the people who know this best are those who have already gone through a divorce. Most of the prenups we arrange are for people marrying for the second or third time.”

If there is a second or third (or more) marriage, prenups can also protect any financial obligations to a previous spouse. “We often see divorce agreements require life insurance policies as a way to ensure payment of support to an ex-spouse or children. A prenup can protect such an asset from going to the wrong place,” says Walny.

“For a prenup to be legal, it has to fulfill

certain requirements — it must be in writing, there must be full financial disclosures by both sides, the document cannot be unreasonable, it must be executed legally, and it has to have been entered into voluntarily by the two parties. For a prenup to hold up, we always want both spouses

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es to have legal counsel and be properly represented. This helps ensure that no one is being taken advantage of,” Walny continues. “Also, the agreement should be signed well in advance of the actual marriage. We never want to see a spouse threaten to cancel the wedding if it is not signed. That is a clear cause of duress and evidence of a lack of willingness. The same

applies to when the marriage is for the next day. You always want the parties calm and clear headed as they enter into such an agreement.”

Walny says the question he is most asked is whether prenups really hold up in court. “The answer is: it depends,” he says. “In theory, a good, valid, properly negotiated prenup should always hold up in court. When they fail, it’s usually because the parties took their very good agreement, put it in a drawer, and left it there until the marriage was breaking up, having never followed a single term they agreed to. Just like any legal contract, you cannot selectively enforce terms. If you ignored the prenup during your marriage, a court is unlikely to enforce the deal upon divorce. And there are always defenses available to an aggrieved spouse who can claim things such duress, lack of full disclosure, unreasonableness and other such claims. It is very important to follow legal formality during the prenup drafting and agreement stage with the hopes of having a court enforce the agreement later. Going through that process will likely help avoid fighting, stress and other factors that lead to divorce. In an odd way, prenups can actually save marriages.”

Tell that to Roseanne.