

Saying 'I do' to prenups may be a smart money move

Finances » Such agreements aren't just for the rich and famous.

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If celebrity love lives were morality tales, the prevailing lesson would be, don't forget the prenup.

It's a message that should resonate with a wide swath of the population. With so many more blended families and dual-income households, family finances have become more complicated across the board.

A prenuptial agreement can lessen the potential for a messy divorce by spelling out each party's rights to assets brought into the marriage, as well as those acquired as a couple.

"What you're doing is deciding exactly how you're going to treat your assets, rather than having state laws decide for you," said Gary Nickelson, president of the Chicago-based American Academy of Matrimonial Lawyers.

Coming to terms with whether you need a prenup is only a first step, however. You and your partner then need to lay bare your finances and voice expectations for what could be an ugly scenario. Finally, you'll need to find an attorney to put it all in writing.

As uncomfortable as it sounds, it's a safeguard worth considering. About 40 percent of marriages in recent times ended in divorce, although the figure varies depending on age, income and education level, according to Betsey Stevenson, who specializes in family and public policy at the University of Pennsylvania's Wharton School of Business.

So before you join the seasonal wave of couples taking their vows, ask whether a prenup makes sense.

1. IS IT RIGHT FOR ME? Prenups aren't just for the fabulously rich. They can play a pivotal role in protecting people at all income levels.

One of the more common reasons to get a prenup is to protect the interests of children from a prior marriage. A sizable portion of assets automatically go to a spouse upon death in most states, but this can be avoided by using a prenup. Unlike wills, a prenup requires your partner to sign off on giving up those rights.

Another scenario when a prenup makes sense is when there's a significant disparity in wealth. It's also worth considering if you or your spouse-to-be owns a small business or a stake in a family business; a prenup can ensure ownership isn't contested in a divorce.

Not everyone needs a prenup, of course.

"When a couple is starting from scratch and there are less assets brought in, there's not as big a need," said Greg Womack, a certified financial planner and president of Womack Investment Advisers in Edmond, Okla.

2. HOW MUCH WILL IT COST? Getting a prenup won't be cheap.

Even for a couple with modest assets, the cost could total a couple thousand dollars. An attorney might charge about \$1,500 to draw up the document. Your partner would also want a separate attorney to avoid a conflict of interests.

Each side might also want to tweak the agreement before signing it. Prenups for larger, more complicated estates can cost as much as \$10,000, if not more.

Couples can also draw up a do-it-yourself prenup. But state laws regarding marital property can be complex, and an attorney can ensure the prenup covers all your bases.

3. WHAT SHOULD IT COVER? Typically, any debt someone has when they get married -- such as a student loan -- will follow them in a divorce. But even a spouse isn't directly liable for their partner's prior debt, creditors might be able to go after shared property such as cars or vacation homes.

A prenup can specify what property or debt will be shared in a marriage. For instance, you might own a home that you want to remain under your name alone in the event of a divorce. You can spell out how alimony will be handled, too.

4. IS THERE ANYTHING A PRENUP CAN'T COVER? Forget about striking a deal on who gets custody of the children in a prenup.

"You can't just waive away the rights of children," said Mitchell Karpf of the American Bar Association. You could, however, spell out how a child is raised, including the religion that should be observed.

It's not uncommon to hear of high-profile prenups that include stipulations that void a spouse's alimony rights if caught committing adultery. Although there's no reason your prenup can't include a similar clause, Karpf cautions that they can be messy and protract legal proceedings.

Most states also have laws dictating that prenups need to be generally fair and reasonable. That means a prenup that gives everything to one party might not hold up.

5. IS A PRENUP EASY TO INVALIDATE? It seems the only time a prenup makes news is when it's contested, which may give the impression that they're easy to overturn.

That shouldn't be the case if properly executed. The first step is to allow ample time to think over the terms. Getting a prenup shoved at you on your wedding day could later give you ground to claim it was signed under duress.

6. HOW OFTEN SHOULD A PRENUP BE UPDATED? Update whenever there's a significant change in your circumstances. This might include the birth of a child, an inheritance or a career change. Such life-altering events might be grounds for invalidating certain financial agreements made in a prenup.

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