

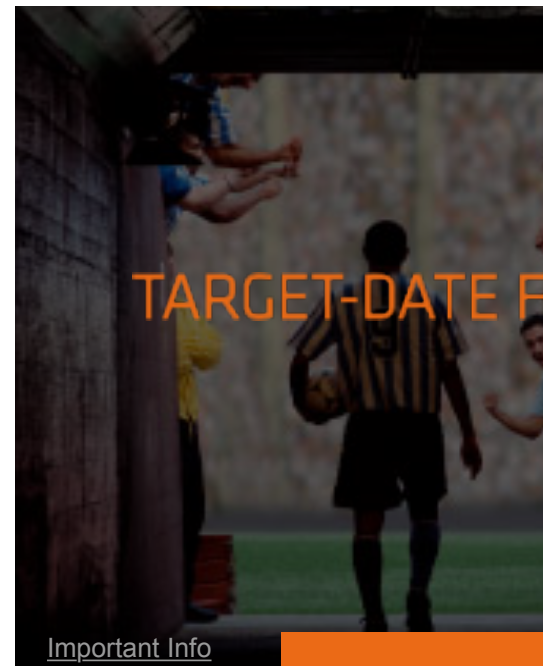
# Declining marriage rates present a planning conundrum for long-term couples

Protection takes precedence for committed couples who won't get hitched

Feb 9, 2015 @ 4:27 pm

By **Darla Mercado**

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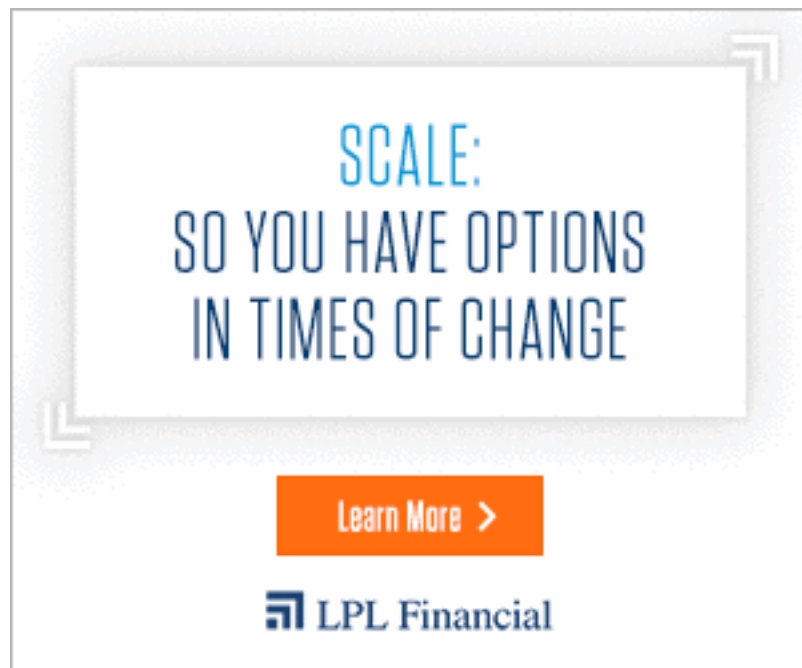


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Fewer young people are taking the trip down the aisle, opting instead to cohabit, which is giving rise to a variety of unique planning concerns.


Data from the Pew Research Center showed that in 2012, 20% of American adults age 25 and over — some 42 million people — **had never been married**. That compares to 1960, when 9% of the adults in that age range had never been married.

But Pew has also pointed out that not all of these individuals are necessarily single: About 24% of Americans aged 25 to 34 who have never been married are currently cohabitating with a partner. Indeed, the Internal Revenue Service may deem them single, but they most certainly aren't.



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inability to get married comes with a set of new planning concerns.

“It's absolutely a decision that people have to make when it comes to marriage or cohabitating,”

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Advisers say they're running into that very issue with a number of their clients, and that often, the choice or

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said John J. Voltaggio, managing director and senior wealth adviser at Northern Trust. “There are financial implications to this and rule of law decisions.”

## WHEN IT PAYS TO BE 'SINGLE'

The first thing that comes to mind when high-earners get hitched is the fact that they'll likely be subject to a marriage penalty in the form of higher income taxes when filing jointly compared with the **taxes they would've paid as singles**.

Being single in the eyes of the law also makes sense for a couple who might prefer to keep assets separate, noted Mr. Voltaggio. “In marriage, the spouse has a right to certain assets when you accumulate things together,” he said.

There are other reasons why couples might want to remain committed without getting married. Scott Squillace, attorney and founder of Squillace & Associates, notes that he has a client with a live-in partner and both are nearing retirement age. Though they can get married, they won't.

“She doesn't want to be on the hook for his nursing home care,” said Mr. Squillace. “They are very committed. They share household expenses, did their wills and health care proxies, but at the end of the day, you count both people's assets for nursing home care if you're married.”

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And still another reason: If you're not married to your long-term partner, and you have a child from a previous marriage, the partner's assets won't count for financial aid purposes, said Mr. Squillace. "There are reasons that drive people to say, 'We better not,'" he added.

## PROTECTIVE PLANNING NEEDS

Clients who cohabit would be wrong to believe that they have protection under state law as common-law spouses. For starters, not many states recognize that status, meaning those individuals aren't afforded the same protections as married people in the event of death or divorce.

Domestic partner agreements, be it for heterosexual or same sex couples, can help address some of the thorny issues around what happens if there's a split: Think of it as a prenup without the "nup."

"Domestic partnership agreements outline the rights and obligations of the couple: Who is paying for what, and how do you divide things up," said Mr. Squillace.

As always, think about the ramifications of splitting those assets, particularly if they're qualified accounts. "I've seen complications in breakups, where the retirement accounts can't be touched without taxes," said Nan P. Bailey, an



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adviser at NPB Wealth Management. Instead, think about negotiating assets in non-qualified accounts or consider home equity as a potential bargaining chip in the event of a split.

Another important protection measure is to ensure the committed couple addresses each other in documents for power of attorney and health care proxies. Asset titling and beneficiary designations are also important.

“Titling of assets becomes essential because there are many states where you can transfer on death or joint tenancy with rights to survivorship that will ensure your partner gets your stuff when you die,” said Ms. Bailey. But beware triggering gift taxes on the non-spousal partner when he or she is added as the joint tenant on an asset; this retitling is considered a gift, she warned.

To mitigate the tax, the person giving the asset can apply his or her lifetime gift exemption and absorb the gift tax that would otherwise fall to the recipient, said Ms. Bailey.

Finally, unmarried couples may not be eligible for survivorship benefits from pension plans, and aren't eligible to collect Social Security benefits on their partner. It should be noted that President Barack Obama proposed having Social Security spousal benefits to apply to same-sex couples, even if they reside in a state that doesn't

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recognize their marriage, **but they have to have been married in one of the 37 states that permit it.**

Protect the domestic partner with life insurance that's equal to the net present value of the pension, noted Mr. Voltaggio.

Things can also get complicated if a non-spouse inherits an IRA.

“What gets messed up when the partner dies is the inherited IRA,” said Ms. Bailey. “It's an entirely separate set of rules from the spousal IRA. The importance of having that handled properly is foremost and it should be given consideration.”

Spouses benefit from an inherited IRA, meaning that the survivor can roll the amount into his or her own IRA and allow those assets to continue growing. That option isn't available to domestic partners, who can either open up an inherited IRA based on the survivor's life expectancy or open an inherited IRA that requires the assets to be distributed within five years.

Finally, the portability of unused spousal exclusions won't apply for domestic partnerships, where estate and gift taxes are concerned.

“I get asked so often, 'Should we get married?'" said Ms. Bailey. “My quick answer from a financial planning point of view is that it's not going to

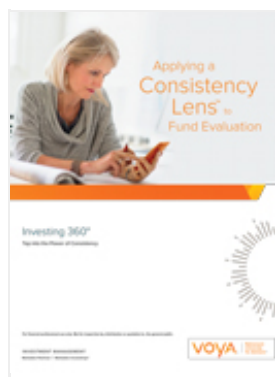
work on the income tax side, but it's a blessing on access to divorce courts and estate planning. There are pros and cons both ways.”

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