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Should We or Shouldn't We?

John Hobbs | March 25, 2014

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So you found the perfect spot. You've chosen a night that's meaningful to both you and your beloved. The waiter has uncorked the wine, and the table's candlelight is casting just the right amount of romantic glow.

It's all come down to this. Steeling yourself, you pop the big question: "Honey, will you make me the luckiest man on Earth and meet with my financial adviser, attorney and me to run our numbers to decide if marriage makes sense for us?"

It's not exactly the stuff romance novels are made of, but it is what experts suggest same-sex couples do when considering whether to wed in the brave, new post-DOMA world, with ever more states—17 plus D.C. at the time of publication—recognizing same-sex marriage.

"I get accused all the time of having the most unromantic conversations," admits Jennifer Hatch, managing partner of Christopher Street Financial, a New York-based money management firm for the LGBT community. In all, Christopher Street manages \$300 million worth of wealth across 300 households.

With her firm's client list—some of the nation's wealthiest same-sex couples—in front of her, Hatch is surprised by how many have married.

"A couple of years ago, I had 50-50 in terms of those couples in long-term, committed

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relationships who had chosen to get married," Hatch says. Today, 80-90 percent of the firm's couples are married, thanks in large part to the Supreme Court decision that struck down DOMA and more states recognizing same-sex marriages.

ESTATE TAXES

Two of the firm's recent newlyweds are 58-year-old Frédéric Rambaud and 64-year-old Alan Ceppos, co-owners of The Sarut Group, which runs retail stores Pylones and Piq. The couple



married in July 2012, nearly 40 years after meeting in Paris.

"One of the reasons we had to get married was because if one of us were to die, we'd probably lose our business," Ceppos says, referring to the state and federal estate taxes due. "The taxes we would've had to have paid on a business worth perhaps over \$10 million would've put us out of business."

The estate tax issue, central to the Windsor case that ultimately led to the Supreme Court striking down a key portion of DOMA, has been a major motivating factor for many same-sex couples looking to protect their wealth—and their partners—after death. When Edith Windsor's spouse, Thea Spyer, passed away in 2009, Windsor was appalled to find she owed more than \$600,000 in state and federal estate taxes, even though heterosexual couples can pass wealth on to their spouse tax-free. She took the case to the Supreme Court, which ruled in Windsor's favor, eliminating the federal estate taxes on inheritances passed on to same-sex spouses.

Many couples think because their estates don't reach the threshold for federal taxes to be taken out that they'll avoid estate taxes altogether, but the state thresholds begin at a much lower rate.

"I can't tell you how many couples [I see] who have been together decades and have a house together and think they will never have to pay an estate tax," says Scott Squillace, a Boston-based attorney, estate planning expert and author of *Whether to Wed: A Legal and Tax Guide for Gay and Lesbian Couples*. "I'll run the numbers in my office and say, 'OK, if you leave everything to each other [and aren't married], when the first of you goes, you're going to owe the state \$393,000 because of the value of your estate and home,' and they'll look at me cross-eyed."

Those taxes are then due within 90 days no matter how much cash you might have on hand. These situations could leave the surviving spouse having to sell the longtime family home just to pay the tax bill on an estate.

INCOME TAX

Another area couples should explore is their income tax liability. "The tax system is set up for your 1950s couple where there's a bread earner and a stay-at-home parent," Hatch says. "But when you have two high-earning spouses, you end up paying taxes at a higher tax bracket."

Depending on a couple's financial circumstances, they could be faced with a "marriage penalty" or a "marriage bonus." With a marriage penalty, two spouses earning roughly the same wind up owing more when filing jointly than they did when they file separately.

If you fall into the 1950s couple scenario where one partner earns considerably more than the other—if, for example, one partner is a stay-at-home parent—the spouses wind up owing less when filing jointly than each would owe on his own.

David Rae and his fiancé, Ryne Meadors, will face an increased income tax liability come next April. The two, a Los Angeles-based financial planner and a fundraiser, respectively, bring in more than \$200,000 together. They plan on exchanging vows in late September, and Rae knows that whether they're married Jan. 1, 2014 or Dec. 31, 2014, they will be considered a married couple throughout the entire calendar year of 2014. "You just want to avoid getting to April 15, having your taxes done and being really surprised at this big bill," he says. "If you're aware ahead of time, you just put the money away."

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FEDERAL BENEFITS

There are more than 1,000 federal benefits offered to same-sex married couples—if they live in one of the 17 states (or D.C.) that recognize same-sex marriage—that are not available to single people. These include Social Security survivor’s benefits, veterans’ benefits and IRA rollover options. While all these new benefits may appear to be a plus at the outset, there are specific situations where it could hurt a couple considering nuptials.

For example, if a modestly wealthy partner falls seriously ill and needs Medicaid, he may not be eligible for the same level of financial assistance if he gets married. The federal government would look not only at his income but also his spouse’s when determining eligibility. Marriage can also affect student aid eligibility.

A lesbian couple, who spoke to Instinct on condition of anonymity, has found themselves in this situation and consequently has chosen not to marry. The fiftysomething couple—one’s an attorney; the other, an actor-artist—annually bring in more than \$200,000 together.

However, one has four children—ages 12, 14, 15, 17— from a previous marriage. The children will need to qualify for both federal and college-offered financial aid in the near future. “When a parent re-marries, they consider the income of the new spouse too, regardless of whether the new spouse is contributing or not to the child’s financial aid,” the mother of four says.

To ensure the children qualify, the couple, who have been together for 10 years and describe themselves as deeply committed to each other, have chosen to make a short-term sacrifice for the sake of their kids.

“We will get married when there’s no longer a financial consideration,” the mother says.

DIVORCE

No one—straight or gay—wants to even think of divorce as they’re planning a wedding, but nearly 50 percent of heterosexual marriages end in divorce, according to the Centers for Disease Control. And there are no statistics to suggest same-sex couples will fare any better. Not only are their horror stories of couples not being able to divorce because they’ve moved to a non-recognition state that doesn’t even recognize their nuptials to begin with, but Squillace also points out divorce is incredibly time-consuming, expensive and painful.

“When you’re in a relationship and you decide to call it quits, it may be painful, but you can pretty much say, ‘Here’s the deal’ and walk out,” Squillace says. “If you’re getting divorced, you have to go before a judge and explain what you’re doing. It’s very intrusive. You have to provide full financial disclosure.”

This is why Hatch suggests prenuptial agreements in some situations so you can opt out of paying alimony and preserve the rights to your businesses. “People generally get married because they want to express their undying commitment to each other. It’s really wonderful in that way,” she says. “But let’s face it: people change, circumstances change.”

TRAVEL

While there’s absolutely no difference between a heterosexual and a same-sex marriage if you live in one of the recognition states, we are a mobile society.

“The classic example I always give is when people from Boston go to Florida for vacation, then they go from being married to maybe not having their marriage recognized,” Squillace explains. “That’s a lot different from the straight couple who doesn’t have to think about that when they go to Disney World.”

The situation can have some far-reaching, profound implications, including the ability to make medical decisions on your spouse’s behalf in the event of an accident.

“If you’re in a non-recognition state and you’re married, you have to figure out how you can better protect yourself or how you can import the rights from the recognition state you got married in to the non-recognition state,” Squillace says. “And that’s where the lawyers have some fancy footwork we’re employing to make this work.”

While many of these questions do seem like they could spoil the romance of a proposal, they really can impact the quality of the relationship.

"I think dampening some of the romance and going through some of these things before you get married is a lot better than being married to someone or being stuck in a marriage where you're not getting the life you were expecting," Rae advises.

Hatch adds that even though it's smart to consider how a marriage will affect you from a financial perspective, it all comes back to the heart. And for all her levelheadedness and unromantic conversations, she's not immune to matters of love.

"It was really surprisingly emotional," she says of her nuptials to long-term girlfriend Sue Smith. "I was a little scared about the financial permanence of the status, but on the other side, I'm completely thrilled. It's a really great feeling."

Get more on marriage in our new April/May issue of *Instinct*—out now! *Instinct* is available at Barnes & Noble, at iTunes for the iPad and iPhone or through our subscription services at (888) 45-INSTINCT or through our online store [here](#).



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