



LIFE INSURANCE



Guiding you through life.

SUCCESS STRATEGY

NEEDS ANALYSIS

Advanced Markets

Domestic Partners

Planning For Your Loved Ones

As a couple in a committed relationship, you share many of the same concerns as other couples, including your married counterparts — in the event of a premature death you may want to provide for your partner, pay for your children’s college education, and perhaps even cover debt. On the other hand, as members of an unmarried union, you are not afforded the same rights as married couples. Marital status often determines the legal availability of benefits and rights. How much life insurance do you need to help compensate for some of the differences and what other planning opportunities should you consider?

Planning Concerns

As member of an unmarried union, you need to be aware of additional planning that is required to ensure that you have given your family and your surviving partner the protection they need.

To ensure your family is cared for, consider the following:

- **Health Care Issues and Rights:** Unlike married couples, in most states partners are not automatically considered “next of kin.” Without proper planning, someone other than your partner may be appointed to make medical treatment decisions for your ill partner, arrange their burial, and/or be eligible for an undesignated inheritance.
- **Employee Benefit Rights:** You may not be able to name your partner as a dependent for employer sponsored benefits, such as health insurance and pensions.
- **Retirement Rights:**¹ As life partners you can name each other as beneficiaries on retirement plans (such as IRA’s, 401k’s, etc). Unlike married couples, these beneficiary designations are not considered spousal beneficiaries. At your death, your partner can receive a non-spousal rollover, which can deplete account values prematurely.² In addition, favorable spousal benefits are not available for social security and Medicare programs.

- **General Property Rights:** As with many couples, you may have brought certain assets to the relationship, or perhaps you have built them together. How you transfer your assets either during life or death is a critical issue for domestic partners. Federally recognized married couples can make unlimited tax-free gifts to each other during life or death, meaning that there should not be any gift or estate taxes. As domestic partners, you are limited during life to your annual exclusion gift (\$14,000 per year) or lifetime gift (The “American Taxpayer Relief Act of 2012,” enacted a permanent set of estate tax provisions with the exemption for estate purposes set at \$5 million, indexed for inflation). This means that during life it make be quite difficult to transfer income and property to each other in a tax-efficient manner. It also means that you should look closely at how assets are titled and owned, and what the respective contributions were to each asset. At death, your estate may be assessed estate taxes because you are limited to your remaining federal estate tax deduction.

The lack of basic planning to address these critical issues can have devastating consequences for your surviving partner.

THE FOLLOWING CHART IS A COMPARISON OF BENEFITS

Married Couple		Domestic Partners
Yes	Spousal Benefits under Social Security	No
Yes	Spousal/Dependent Benefits under Medicare	No
Yes	Designation as Spousal Beneficiary of Pension Plans	No
Yes	Availability of Spousal Rollover of Qualified Plans	No
Yes	Named as Dependent for Health/Employee Benefits Coverage	No
Yes	Unlimited Tax-Free Transfers of Assets or Cash Between Partners	No*
Yes	Joint Federal Income Tax Filing	No
Yes	Partner Considered "Next-of-Kin" Regarding Medical Decisions; Burial Arrangements, Inheritance	No

* Tax-free transfers are limited to transfers between spouses who are U.S. citizens.

The Solution

Consider completing a comprehensive Needs Analysis which considers salary replacement needs, estate settlement costs, outstanding debt, college funding and existing life insurance.³ Additionally, you should also pay particular attention to replacing social security, pension benefits and estate taxes.

How Life Insurance Fits

There are a number of financial vehicles that can help facilitate the efficient transfer of assets and provide liquidity to your surviving partner if planned for in advance. Life insurance can be uniquely effective in providing the cash needed to:

- Replace income for your surviving partner and family.
- Pay off debt, such as a mortgage.
- Pay for education.
- Complete the funding of retirement for your partner.
- Restore the financial loss resulting from the required early distribution and taxation of retirement accounts.
- Replace assets lost because you are unable to utilize the estate tax marital deduction.

- A life insurance policy is typically not subject to the probate process, providing the added benefits of privacy and avoiding delay associated with the probate process.
- In some states, the policy may even be protected from the claims of creditors.⁴

Trust Owned Life Insurance

When a life insurance policy is owned by a properly drafted Irrevocable Life Insurance Trust (ILIT) the policy can provide your surviving partner the tax-free liquidity necessary to pay estate taxes as well as debts and/or other administrative expenses. It may also be possible to structure distributions from the trust to create an income stream for your partner.

Other Estate Planning Tools

It is important to note that a number of other estate planning tools can be used in conjunction with life insurance to address the limitations of planning. For example, a Grantor Retained Income Trust (GRIT),⁵ a Grantor Retained Annuity Trust (GRAT) and a Qualified Personal Residence Trust (QPRT) can help you to maximize the gifts of property you transfer to your partner during lifetime. It is important to also consider with your tax and estate planning advisors the various options for titling your property and to carefully assess the impact of each option on your planning goals.

Planning for the Future

Take the steps to plan for the lack of automatic access to basic rights, privileges, and financial benefits. Consider the following action items in your planning process:

- **Create a Will:** By establishing a last will and testament you can outline your intent for the distribution of your assets rather than relying on the state's intestacy statute.
- **Powers of Attorney:** Both partners should create durable powers of attorney, which give you and your partner the ability to manage each other's assets.
- **Health Care Proxies:** Both partners will need health care proxies. You can name your surviving partner as the individual in charge of making medical decisions regarding your mental or physical incapacity or end-of-life options.
- **Letters of Intent:** Both partners should create letters of intent that provide the survivor with instructions for managing the burial arrangement to the extent desired by the deceased partner.
- **Meet With Your Attorney:** Tailor these action items to address the concerns that are specific to your family's situation.⁶

1. The inability for a surviving partner to be named as a spousal beneficiary of a qualified retirement plan, and the lack of availability of a spousal rollover result in unnecessary early distribution and taxation of retirement accounts.
2. See IRC §402(c)11 in which a non-spousal rollover is now available and all qualified plans are now required to offer this option. Nonspousal beneficiaries still will have to start taking distributions immediately (unlike federally recognized spouses), but will no longer be subject to the high tax burden of taking the funds in a mandatory, immediate lump-sum distribution.
3. The life insurance amount is a projections based on the information that you have provided. The amount of life insurance protection you qualify will be subject to medical and financial underwriting requirements and may be more or less than the amount calculated. Lack of marital deduction may result in estate taxes, the titling and retitling of assets should be carefully considered.
4. In certain circumstances, some states exempt a portion of the death benefit and/or cash values of a life insurance policy from the claims of creditors. Limits on the amount of protection from the claims of creditors may reduce the effectiveness of this feature. Also, creditor protection is not available for a life insurance policy when the owner/insured is insolvent or is contemplating filing for bankruptcy.
5. Trusts should be drafted by an attorney familiar with such matters to take into account income, estate and generation skipping transfer taxes. Failure to do so can result in adverse tax consequences.
6. Please consult your estate planning attorneys familiar with such matters.

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