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Life events: Second marriage

Financial checklist

It is not unusual that one or both of the parties planning to marry are approaching marriage for the second time. There are pluses and minuses to this new situation. On the plus side, individuals entering a second marriage tend to be somewhat older and if not necessarily 'wiser' than first-time couples, they have a good idea of their needs, wants, and are often in a more secure financial situation. On the minus side, there can be complications regarding previous spouses and children that require careful consideration when planning the domestic situation (custody, etc.) and estate plans.

Children and custody

If you or your new spouse have minor children from a previous marriage it is assumed under law that those children will be properly provided for. Child support requirements are generally based on federal/provincial guidelines relating to the relative income of the parents. When becoming remarried, the income of the new spouse is typically not an issue unless the basic support award had been reduced. When minor children are being introduced to a new home life, it is strongly recommended that legal counsel be retained to ensure that the new arrangement is in their best interests, with the agreement of any other parent and compliant with legal guidelines.

Spousal support

Unlike child support, spousal support is not subject to specific government guidelines and as such each case needs to be judged on the facts. As a general rule, remarriage is not grounds for a person to reduce their spousal payment responsibilities to a former spouse. However, the remarriage of the recipient of the spousal support may result in a reduction, suspension or even elimination in spousal support payments depending on the specific situation.

Insurance

If you previously had a spouse it is often the case that you had life insurance on your life with the former spouse as the beneficiary. This may be the case with both Group Life Insurance through your employer and Individual Life Insurance. If you intend your new spouse to be your insurance beneficiary, you need to review your life insurance policies, both group and individual,

to ensure the changes are made. Although there have been some interesting court decisions on this matter, in almost all cases it has been determined that the stated beneficiary will receive the insurance proceeds. That means if no action is taken your former spouse will probably receive your life insurance benefits if he or she is the named beneficiary.

Estate planning

When becoming remarried, it should be a primary objective to renew your Will. If your former spouse was the beneficiary or part beneficiary of your Will, the granting of a divorce will nullify that. Consequently, you will need to consider how you want your estate to be distributed. Your remarriage may be reason to reconsider how your children will be dealt with in your Will as well. Finally, there may be other assets with your former spouse as the named beneficiary including RRSPs, RRIFs and Pensions and you need to think about new beneficiary designations.

Prenuptial agreements

A prenuptial agreement is created to anticipate how a future breakdown of a relationship will be managed. Many people are hesitant to consider a prenuptial agreement since it seems rather pessimistic to be making plans for the dissolution of a relationship even before the wedding has occurred. However, depending on the situations of the couple, these agreements can make a lot of sense. Some of the factors when considering a prenuptial agreement are:

- Marriage generally results in the revocation of Wills and a prenuptial agreement will ensure that an estate plan is in place
- Where the marriage is a second marriage for one or both of the parties, there may be spousal/child support issues outstanding
- There may be significant business or other assets
- There may be a material difference in the assets and/or earning power of the two parties

Some of the factors that may be dealt with in a prenuptial agreement might be:

- The division of assets
- Spousal/child support
- Inheritances
- Education of children

Marriage and marital property division are a provincial/territorial concern in Canada and there are certainly differences across jurisdictions in regards to prenuptial agreements. In all jurisdictions, prenuptial agreements must be in writing to be valid. Your advisor will have additional information and details about prenuptial agreements. However, you should be consulting competent legal counsel when creating one of these agreements and in some jurisdictions legal advice is required by law.