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What Are the Economics of Same Sex Marriage?

Now that same-sex couples have won the battle for marriage equality and can secure many, if not all, of the benefits of marriage offered by federal and state laws, it may be time to consider if marriage makes good financial sense.

The proposition of marriage can be a different question for gay and lesbian couples who have successfully managed life together for years without the formal institution of marriage. Are there underlying economic costs to saying “I do” that could deter some same-sex couples from marrying? Here are some points to consider.

Paying Taxes

If you are not married, you file your income taxes as an “individual.” That status naturally changes when you get married. All married couples must file their tax returns as “married.” But at what cost?

For some couples, marriage can help reduce their tax burden. Whether marriage saves money or results in higher taxes depends on factors including the individuals’ income levels and whether the married couple files “jointly” or as “married filing separately.”

For example, if Heather, a high-income earner, and Tanya, a low-income earner, marry and file their taxes jointly, Heather may find herself in a lower tax bracket given Tanya’s lower income. That situation may help reduce the couple’s overall tax burden compared to their filing as unmarried, single individuals.

While a couple with disparate incomes may benefit from marriage, the venture may be costly for a couple when both spouses have high incomes. The problem is known as the “marriage penalty.”

Jake and Sam each have annual taxable incomes of \$120,000. If they were filing as single individuals, they would each be in the 28% tax bracket. If required to file as married, they would be in the 33% bracket because they are effectively required to combine their household income.

Although Congress has addressed the marriage-penalty problem, under current law couples may find they pay more in income taxes once they are married.

Protecting Property

One of the most important but least understood benefits of marriage is the ability to protect your assets from future creditors. In some states and the District of Columbia, married couples may take title to assets, such as their home and bank accounts, in a way that limits how creditors may attach those specially titled assets. This is particularly helpful when, for example, one member of the couple has to file for bankruptcy because of an illness, a failed business, or being upside-down on a big mortgage.

This special titling is called Tenants by the Entirety (TBE). Once a couple is married, they may title some or all of their assets as TBE. The creditors of either member of the couple cannot attach the assets titled as TBE to the married couple. If the couple owned the assets simply in a so-called “joint tenancy,” a creditor of either could take some or all of the jointly titled property.

Benefits, Retirement, and Social Security

A couple anticipating marriage should not ignore the differing levels and types of benefits afforded to married couples versus domestic partners. In many circumstances, benefits may not be available to domestic partners.

If your employer offers spousal benefits such as health insurance, married couples may be able to benefit shop between their respective employers to find the best health care and other benefits—and not pay income taxes on those benefits. The benefit of marriage in this situation is that the value of those benefits (paid by the employer on behalf of the employee) is not taxable income.

For unmarried domestic partners who receive the same employee benefits (if the employer offers them to domestic partners), the value of the benefits for the domestic partner is taxable income to the employee.

A same-sex couple should also consider the potential Social Security benefits available to them as a married couple. An individual is eligible for Social Security retirement benefits on his or her

own work record. Married couples, however, are eligible for retirement and survivorship benefits based on their spouse’s work record, whether or not they are entitled to benefits of their own. For some couples, marriage could mean greater financial security during retirement, especially if a spouse dies and the survivor is able to continue to receive the larger of their individual retirement benefits.

There are nuances and complexities to claiming Social Security benefits for married couples. The Social Security Administration urges couples to file a claim, even if they are not certain they are eligible. In some instances, such as couples in a legally recognized civil union, there may be some benefits available. In any case, it is important to consider what is available and realize that without a legally recognized relationship, these benefits may not be available.

Your Stuff, My Stuff, Our Stuff

With increased benefits come increased responsibilities. Marriage is a contract, and the laws of your state of residence determine your responsibilities.

Unless you have a valid prenuptial agreement, saying “I do” may be like giving away half of your assets. Equitable distribution (a term many divorced couples are familiar with) means generally that your marital assets are divided in the event of divorce, which could be costly.

The benefit of the marital contract is control when one member of a couple

is sick or dies. Now that same-sex marriage is recognized, gay and lesbian married couples enjoy the peace of mind that they are legal next-of-kin for making decisions for a sick spouse and will be in control of the spouse's estate at death, absent other arrangements.

However, just because marriage equality is now recognized, there is no substitute for creating a financial and estate plan by getting your documents in order—even if you are married.

Get Advice

With the opportunity to marry coming later in life or after amassing personal wealth, many gay and lesbian couples may find themselves more concerned with the economics of marriage than many other couples may be. While one cannot reduce the emotional decision to marry to a frigid economic analysis, it is better to know what lies ahead financially when making a life-changing decision. One thing is certain: there is wisdom in getting good, coordinated advice from your legal, tax, and financial advisors.

For more information, please contact your Hawthorn advisor.

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