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'Money \$ense': What to consider when drafting a postnuptial agreement

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PERHAPS YOU you have been married for a while and are considering a financial reset. This may take many forms, one of which is a postnuptial agreement. This is a contract between you and your spouse. Since assets can accumulate during a marriage, a postnuptial serves to protect those assets in case there is a divorce or separation.

Here are some things you may want to think about when entering into a postnuptial agreement.



A postnuptial agreement is similar to a prenuptial agreement. The difference is that a prenuptial is signed before marriage while a postnuptial is signed during the marriage.

These types of agreement can add clarity to a couple's finances. They also can be used to help correct past financial conduct that was wrongful. Let's take a look at some situations in which these agreements are particularly useful:

- One partner isn't very good at handling money.

A postnuptial could address the issue and help the couple establish new money routines.

- The couple may have built a business that has grown to a significant size. As part of an overall financial and estate review, the couple may want to put protections in place for certain situations.
- One partner may be anticipating receiving a large inheritance.

While beneficial, drafting these documents will cost both time and money. It usually makes sense for each party to have his or her own attorney. A professional, such as a certified financial planner, will have to coordinate the expertise of the various parties involved, which could include accountants and estate

planning attorneys. If a business is involved, there might need to be an extensive review of both the business' valuation and its succession plan.

Here are some questions to consider:

- What are we actually trying to accomplish? This is the time for full disclosure. What debts are there? What are the assets? Are there business issues? Are there significant investments?
- Are other family members involved as well? There might be minors to factor into the equation. Even adult children might be considered, especially if they are involved in the family business.
- How much debt has been accumulated? How will this be paid off? It is a good idea to discuss debt issues going forward.
- If there is a business, you might want a plan in place for what happens if the marriage should fail. How will assets be disposed of? If the goal is to pass the business to the next generation, you should consider this as well.

In addition to future expenses, there are everyday living expenses to consider.

One spouse could find a particular expense burdensome. Is there a way the other spouse could pay for this item? Review your insurance expenses. What is the best way to handle these and obtain the appropriate coverage?

We have already mentioned estate planning. This is the time to look at who will receive what and review whether the documents or beneficiary designations reflect this plan. Trusts might need to be set up to handle specific circumstances.

A final set of questions concern retirement. These don't just involve finances. There could be questions as to where to live, whether to work part time and what happens if one spouse becomes ill. If there is a large age difference, one spouse might retire many years before the other is able to.

As can be seen, drafting these documents is a lot of work. The benefit, however, is that the couple is aware of what will happen if the situation just doesn't work out and they go their separate ways. Each will have some measure of financial relief in knowing that a well-considered plan has been put in place.

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