

# **Prenups and estate plans: Make sure they work together**

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If you're getting married, estate planning likely is the last thing you want to think about. But if you and your future spouse plan to sign a prenuptial agreement (commonly referred to as simply a "prenup"), it's a good idea to design the prenup with your estate plan in mind.

## **Estate planning benefits**

Prenups are usually associated with divorce. But they also provide benefits for successful marriages, including protection from liability for your spouse's separate debts and implementation of estate planning strategies.

Most states give a surviving spouse certain rights to a deceased spouse's property. In community property states, for example, a surviving spouse enjoys a 50% interest in all community property. In most other states, surviving spouses can choose to receive an "elective share" amount — usually between one-third and one-half of the deceased spouse's estate.

These rights supersede the terms of a will, but they can be waived in a prenup. This doesn't necessarily mean that you'll be disinheriting your spouse. Prenups typically preserve a spouse's right to receive a substantial portion of the other spouse's wealth. But by waiving marital property rights, they allow you to specify the manner in which your assets will be distributed and ensure that your estate plan will operate as intended.

Suppose, for example, that you own a closely held business that you run with your children from a previous marriage. Assume further that the business makes up 75% of your net worth and you want your children to inherit it. A prenup can prevent your spouse from acquiring an interest in the business — either through a divorce or spousal inheritance rights — while preserving his or her right to the other 25% of your estate.

## **Plan ahead**

Prenups offer several significant estate planning benefits. We can help you maximize these benefits as well as advise you on possible estate planning traps.

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