

# FINANCIAL PLANNING™

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# Defining Competence

The debate over practice standards heats up

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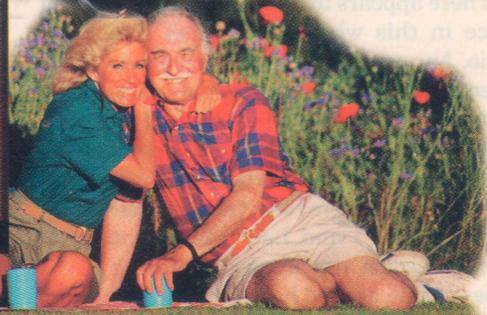
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# Marry, Marry?

**When committed couples aren't married, planners must create air-tight estates, obtain insurance and maximize tax benefits.**

Chris and Tracy lived together for nearly 20 years with joint accounts, a house and all the trappings of marriage, with one exception: a marriage certificate. When Chris died, his belongings were left to his estate. Tracy, who expected to inherit the house, the furniture and all the assets, lost everything to Chris's family. Unprotected by state or federal laws, Tracy was left with nothing.

Couples living together without the legal protection that marriage provides are becoming more common, planners say. Complex planning is needed to afford these unmarried couples the legal safeguards their married counterparts take for granted. Sometimes, as in the above example of two gay men, the couple can't be legally married. Other times, as in the case of senior citizens who fear losing Social Security benefits, the couple doesn't want to get married.



Unmarried couples create "an unending litany of extra work," according to Jane King, a planner with Fairfield Financial Advisors in Wellesley, Mass., but they're also a tremendous referral source. That's because when unmarried

Most planners who work with unmarried couples normally have an estate tax lawyer handy to draw up documents that are supposed to hold everything together in the event of a mishap. Planners say dealing with what-if scenarios from the beginning can make it tougher to plan for unmarried couples (with some even deciding their relationship isn't that serious). With married couples, advisers can

# Quite Contrary

By Larry Dignan

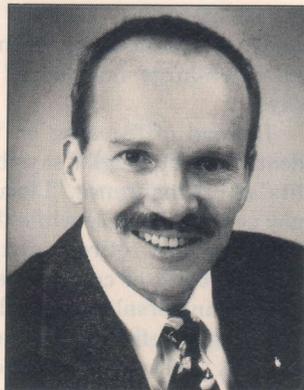
couples find a planner they're comfortable with, they're quick to spread the word to other couples in similar situations. For some planners, unmarrieds are representing a growing percentage of their client base, ranging from 15% to 100%.

## Clients With Special Needs

Many people say it's difficult to find a planner they can trust, but unmarried couples face an additional hurdle. Unmarried heterosexuals, for example, must contend with planners trying to sell them on the financial planning virtues of marriage, while gay and lesbian couples contend with advisers who either don't understand their particular financial planning issues or feel a need to pass judgment on their sexual orientation.

"It's hard enough to call a planner," King notes, "but if you're not sure that person is going to be comfortable with you, it's worse."

Mike Engler, a principal with Community Pride Financial Advisors in Baltimore, learned firsthand how difficult it can be for gay couples to find a financial planner. Engler, who markets to the gay and lesbian community, says he advises a gay couple who were so fearful of encountering homophobia that they hadn't even bothered to look for a planner. By the time a mutual friend introduced Engler to the couple, they had amassed more than \$94,000—all of which was sitting in a regular checking account.



In advising unmarried couples, King starts out with questions—a lot of them. What if she walks out the door? What if he dies or becomes disabled? What are you going to do if you have kids? Who gets what assets? How will you divide the bills? Where do you want your money to go after you die?

"You have to spell everything out," King says. "You have to be super-specific. If you're not going to leave money to your parents, say so."

gradually work up to the what-if-you-die discussion. Because unmarried couples don't have the legal map to guide the survivor in the event of death, morbid topics often are tackled first. Living trusts, wills and powers of attorney are all vital aspects of planning for unmarried couples, advisers say.

## Tax Strategies And Asset Transfers

Because passing assets is the primary concern for unmarried couples, planners advising these clients are well versed in the tax code. "One of the most powerful ways to save money for unmarried couples is to use tax strategies," says James Davis, principal of The Financial Advisory Group and Davis Tax Consulting, based in San Francisco. Although married couples receive a few tax perks, being unmarried definitely has its advantages, says Davis. For example, each partner in an unmarried couple can take a one-time tax exclusion of \$125,000 on the sale of a house after he or she reaches age 55. Married couples share the one-time deduction.

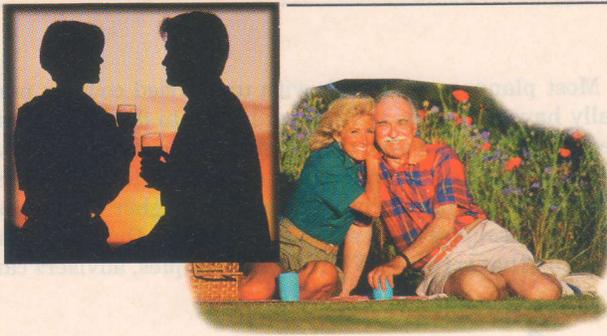
Davis uses many tax strategies to help unmarried couples. If a couple owns a house together, Davis suggests putting it in the name of the partner in the higher tax

**According to James Davis of The Financial Advisory Group and Davis Tax Consulting, being unmarried has its advantages. For example, each partner can take a one-time tax exclusion of \$125,000 after age 55.**



bracket, who can then rent the property to his or her significant other at fair market value. Normally, one partner owns the house or has a higher income anyway, says Davis. If not, the partner in the lower tax bracket should sell his or her share. With this strategy, the owner receives insurance, maintenance and depreciation deductions, which more than offsets the rent the other partner will pay.

According to Davis, renting to your partner can't be contested under current tax laws. "The Internal Revenue Service knows about it, but doesn't like it," he says. "There's



lots of things you can do and there are also plenty of ways to protect the other partner. Passing assets to the partner is really not much different than passing them to a child."

However, not all unmarried couples are interested in passing assets to surviving partners. An increasing number of senior citizens are living together but not remarrying, says Arvilla Gregor, a planner with Financial Network Investment Corp. in Prescott, Ariz. These couples are interested in sharing living expenses, not commingling their assets.

"Among the seniors, most had marriages before and want to keep their estate separate," Gregor says. "They don't want to disinherit their kids." Gregor says many seniors simply say it's easier to live together than go through the process of melding estates, heirs and other headaches.

Seniors also would lose a Social Security check if they were to remarry. "There's definitely a marriage penalty," says Davis, who thinks losing Social Security is the primary reason seniors don't remarry. "Many seniors couldn't afford to live if they were to get married."

Some planners, however, say the nuts and bolts of living together (like who pays the electric bill) need to be worked out before worrying about issues like asset transfers. "For me, cohabitation agreements are the biggest thing," says Judith Jamison of American Express Financial Advisors in Colorado Springs, Colo. "The finances can be complicated and some hard issues need to be addressed."

#### Making The Most Of Employee Benefits

For gay and lesbian couples, planners have to find products and techniques to accomplish what the law does for married couples. Much of the focus revolves around protecting assets from non-supportive families, Engler says.

"There's less legal help for the passage of money," he says. "Top of the list, I take them to a lawyer to handle wills, powers of attorney and play devil's advocate. That makes them think about the issues and see how strong the relationship is. Everything has to be on paper."

Engler also tries to maximize employee benefit packages for gay couples, he says. Some employers recognize non-traditional couples for the purposes of health insurance, but such companies are rare. "Maximizing medical benefits is usually not possible. In most jurisdictions, there is no statute addressing the problem. As a result, health insurance companies do not allow a non-legal spouse to qualify for benefits," he says. "Most private employers are unwilling to press the issue. However, there is precedent for it among some companies such as Apple, Lotus, Levi Strauss and so

on, and a few municipalities. It can be a big problem for gay couples, especially if one partner does not work or if there are children involved, because of the extra cost incurred to maintain two separate health insurance policies. We all know how expensive health insurance can be."

Gay Abarbanell, a planner based in Culver City, Calif., says gay couples have few choices when it comes to health insurance. "I always ask them how much they want to be a pioneer," she says. When a gay couple pushes for health insurance for one partner, they often can get it through their employers, Abarbanell says. If the couple isn't willing to push aggressively for joint coverage, the uninsured partner can get an individual policy.

Abarbanell says the choice for unmarried couples comes down to establishing individual policies, fighting for coverage or circumventing the system. For many years, Abarbanell would get life insurance for one client and name a parent as the beneficiary, then change the beneficiary to the partner of the insured. These days, however, she finds most life insurers will accept a gay partner as beneficiary when the policy is written.

Engler says the life insurance needs of gay couples differ widely from those of married heterosexual couples. "Most

### Planner Gay Abarbanell finds many life insurers will accept a non-spouse partner as beneficiary of a policy.

life insurance focuses on the need for a death benefit to ensure the financial survival of the survivor. Most gay couples are two-income, so large death benefit policies are usually not necessary unless there is an unusual circumstance, such as an extra-large mortgage," he says.

Instead of focusing on the death benefit, Engler says he emphasizes the "living benefits" of life insurance. "I focus on what a policy can do for a gay person or couple while they are alive. These can include supplemental retirement income at any age, tax-advantaged growth of cash values"—which can be particularly good in universal and variable life policies—"and accelerated/living benefit riders to help fund long-term care needs," he says. "I recommend that clients generally get term insurance through their employer's benefit package, where it is cheaper than anything an agent can provide. I focus on permanent policies that can provide the above benefits independent of an employer and that can be useful during retirement years."

Another benefit, Engler says, is that life insurance can assure the fast, tax-free passage of money from one partner to another without interference from non-supportive or hostile family members or the probate courts. "This is very important because estate laws do not protect or recognize gay couples," Engler says, "and families can be very nasty." **BP**

