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## The Business Side of a Second Marriage

A new marriage often presents an opportunity for a fresh start, a chance to move forward in life. Before your wedding celebration, however, there are many important things to consider if you are going to make the transition a smooth one. Are you combining households? Are you moving to a new space or is one of you “making room” for the other? Are other family members also involved, such as children or parents? People who remarry frequently have complex financial responsibilities: child support, aging and ailing parents or other loved ones, existing mortgages and other debt, tax liabilities, liquid and illiquid investments and conflicting estate and tax planning issues and strategies. Do not wait until it is time to pay for the wedding. The best course is to be candid from the start. Discuss all of the aspects of your new relationship, including the financial ones. Some couples even create a consolidated net worth statement. Take time to review your individual financial and family situations before you begin this task.

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## Aretha Franklin Had No Respect

In August, we lost the “Queen of Soul,” Aretha Franklin. Franklin was rumored to have been an extremely private person who insisted on being paid, in cash, prior to performing. She amassed a fortune during her lifetime and her estate will continue to generate income from royalties and the use of her image. Her business acumen was reflected in the fact that, from very early in her career, she was guided by advisers. She even had an estate planner. Yet Franklin died intestate, never having finalized a will or a trust.

Franklin had been battling health issues for years. While she refused to publicly discuss her medical condition, rumors that she suffered from pancreatic cancer first surfaced in 2010. Had Franklin created a trust, her privacy would

have been safeguarded because no court involvement is necessary for assets in a trust. Trusts are administered without the need for probate. Instead, the probate court will oversee the administration of her estate. Her failure to implement appropriate estate planning documents means that her assets are a matter of public record. Franklin could have preserved her privacy and designated someone with whom she had a relationship to

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## Speaking with Your Adult Children About Your Retirement



Seniors who have been looking forward to a change in lifestyle or a move upon retirement may want to think about how this change may impact their loved ones. A discussion about retirement may be uncomfortable for parents. Some do not discuss the details of their finances with their children while others share information freely and even involve them in the process. If you assist your child or children financially, provide housing for one or more of them or help with child care for grandchildren, it may be clear that your retirement will have an affect on them. But even if you expect to retire in place and will be self-sufficient financially, it makes sense to discuss this change with adult children in advance.

The time to discuss your finances with your children should happen early. Certainly, you do not want to wait until you are experiencing any cognitive decline before you tackle this conversation. They may be gratified to know that you have things well in hand and expect never to need their help. On the other hand, if you expect that meeting your monthly obligations will be a struggle, this is something that is better to address sooner than later.

How soon before leaving the workforce should I have this conversation with my children? It probably makes sense to introduce the topic as much as five years in advance and then to remind them periodically. This is especially true

if you assist them financially or plan to move. In preparation for retirement, you may need to stop providing financial support. It may be important to encourage a child to implement a strategy for making ends meet or curtailing his or her spending habits. You may need five years to get them off your payroll and/or out of the house.

An important discussion between parents and children involves what you envision as your “retirement lifestyle.” This includes your anticipated residence, which might change with the seasons, and whether your choice is based on proximity to children and grandchildren or a community rich in activities and entertainment for retired individuals. At the same time, you might also discuss long-term care and how you plan to pay for it.

In addition to discussing your finances and retirement you may also wish to discuss your estate plan. Talking with your children about your estate plan may help to minimize confusion and sibling rivalry in the future. The fact that you are thinking about this and implementing a plan may comfort them. Discuss which child will be executor, trustee, health care proxy or agent under the power of attorney. Eliminate surprises - yours and theirs! Share the names and contact information for your estate planning attorney, accountant, financial advisor, banker and any other professional with whom they may need to be in touch if something happened to you.

These discussions with your family are the best way to ensure future smooth transitions — when you retire and beyond.



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oversee her estate with the requisite background to appropriately manage an estate of its size for the benefit of her loved ones - but she did not. Now it will be up to the court to choose an administrator.

The purpose of a will and trust is not only to appoint the manager of the estate but to ensure that a ben-

eficiary's share is handled appropriately. Proper estate planning may have reduced Franklin's estate tax liability. One of Franklin's children has special needs. Ordinarily, the share of an estate intended to benefit a child with special needs should be preserved in a supplemental needs trust. Such a trust ensures the protection of the assets and allows them to be utilized to enhance the quality of the beneficiary's life without affecting his or her eligibility for governmental ben-

efits. Franklin's failure to address this critical need was a lost opportunity. This child's share of the estate will not enjoy this protection.

Everyone's circumstance is different. Like Franklin, some of our readers may have estate tax issues. Some may have beneficiaries who are under age or otherwise incapable of managing their share of the estate. Some have beneficiaries who have financial problems, creditors or are in bankruptcy. And

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People who were previously married often have children from their former marriage. Apart from the fact that the children may resent or oppose the new relationship, you and your partner may have very different views as to child-rearing. You may not naturally agree on issues of support. Determine, as a couple, how you will financially address major expenses like health care, child care and tuition. When you've decided, discuss your plan of action with an attorney to be sure you're considering all potential options and their long-term implications.

Consider signing a pre or post-nuptial agreement. Be aware that your partner may be sensitive about such a suggestion but the exercise may be valuable for both of you. Under the law in New York state, if you are married, you have a legal obligation to support your spouse. You have a right to opt out of the statutory obligations provided that both parties agree. A pre or postnuptial agreement is the only way to do that:



to formalize your arrangement, to legally claim specific assets as your own and to specify the terms upon which your assets will be divided if you and your partner part - either by divorce or death. It is a means for ensuring that the children affected by the marriage are financially protected in the event one spouse dies.

Review each of your accounts. Discuss how to handle joint expenses. Decide whether to open a joint account(s). Update your beneficiary designations. People commonly forget this step and later realize that their former spouse is still named as a beneficiary! Do not just make a change, discuss whom

to name as beneficiary to ensure that both of you are on the same page. Imagine how you might feel if you automatically named your spouse as beneficiary and later learned that your spouse had named his or her children and not you.

Review and update your estate plan. This step often gets forgotten in the rush of planning the ceremony, reception and honeymoon. You'll both need to meet with an experienced estate planning attorney to review your individual wills and trusts from the past and prepare new wills and trusts, powers of attorney, and health care directives to reflect your new status.

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some have loved ones who would benefit from supplemental needs trust protections.

Whatever the circumstance, meeting with an attorney whose practice is devoted to this area of the law is imperative. The same way as you would not go to a podiatrist for heart surgery, an experienced estate planning attorney is the best way to ensure that everything is done properly. We could say that Aretha should have had some “respect” for the estate planning process! Moreover, not only should the documents be properly prepared and implemented but

they should also be regularly reviewed. This is a simple way to ensure that your documents accurately reflect your wishes, which can change over time.

At Berwitz & DiTata LLP we help you accomplish this goal. We draft the documents and then review them with you so that we are sure they reflect your wishes. We encourage you to have them reviewed every three to five years to make sure nothing has changed and that they still reflect your wishes. Call us to set up an appointment today so we can help you avoid the same mistakes Aretha Franklin made.

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Do You Want  
to Keep Receiving  
This Newsletter?

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