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## MUTUAL FUNDS & Personal Finance

Monday, June 7, 2004

### Prenups Sidestep Financial Problems

BY PAUL KATZEFF

INVESTOR'S BUSINESS DAILY

June is the traditional month for weddings. But to assure a blissful ever-after of happy pillow talk, consider taking part in some important money talk first.

One way to do that is via a prenuptial agreement.

"Many people are afraid that nothing can kill romance faster than a prenup," said Violet Woodhouse, a family-law attorney in Newport Beach, Calif.

But the purpose of a prenuptial agreement is to aid marriages, not because you expect divorce.

In fact, one reason for using a prenup is to avoid later misunderstandings over finances, which can cause breakups.

"Money is one of the touchiest issues in a marriage," said Woodhouse, author of the book "Divorce & Money." "Couples who discuss financial concerns and goals will be stronger, not weaker."

Not every couple needs a prenup, Woodhouse says.

"A couple might want one if one or both prospective spouses have pre-marriage obligations," she said. "Some examples would be outstanding debt and child support payments from a previous marriage."

The idea behind a prenup isn't to set a clever trap for your spouse. It is to disclose potential problem areas, so you avoid resentment.

"You need to disclose pre-marriage obligations, for example, because they can become a burden on your spouse," Woodhouse said. "Or they can be a drain on marital income or assets."

A prenup can also clarify how each spouse's assets as well as marital assets get dished out to loved ones when either spouse dies.

"For instance, you can use the prenup to list and define property you already had before the date of marriage," Woodhouse said. "It's usually easier to decide before marriage if you want prior property to remain separate. Same goes for separate income."

One function of a prenuptial agreement is to decide how you want assets divided in divorce. Otherwise, your state's laws could lead to a different result by default.

Community property states call for equal division of marital assets. Some states give judges leeway to divvy up your goods as they see fit.

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**Odds You'll Need It**

Prenuptial agreements are becoming more common, Woodhouse says, because questions arise over disposition of assets when either of two things happens.

"One of those triggering events is divorce," she said. "And there's almost a 50% chance you'll get divorced. The other event is death, and there's a 100% chance of that happening."

A prenuptial agreement can be especially helpful if you have children from a previous marriage.

Suppose you're planning a second marriage. Well and good. But what happens if you die after remarrying?

A prenup details how you and your spouse-to-be want to provide for your earlier children. It assures your assets end up where you want. It doesn't leave their disposition up to local courts.

And it forestalls fights among kids from several marriages.

To be valid, a prenuptial agreement must fully disclose topics. It must also be clear and specific, she says. It should be accompanied by exhibits that document assertions about who owns what.

Exhibits can range from copies of property appraisals to the declarations page of an insurance policy, bank statements and brokerage statements.

As a result, your prenup will typically be at least 15 pages in length, possibly much longer.

An attorney who drafts an agreement may charge an hourly fee.

But an agreement should also jibe with your estate plan. You don't want a prenup to conflict with, say, your will.

For that reason, you may want a prenup drawn as part of your estate planning process.

That means it may not come cheaply. "They can be expensive because they can be part of a detailed, comprehensive process," Woodhouse said. "Also, there's so much financial risk associated with them."

Expect to pay at least \$10,000, she says, plus the costs of estate planning. The tab is typically picked up by whichever soon-to-be spouse wants the prenup more. And that party often pays for his spouse's legal review of the agreement.

**Give And Take**

If you want a prenuptial agreement to help your relationship rather than spark suspicion, approach it using the No. 1 rule of marriage: compromise.

"To the extent you negotiate its provisions, it will cause less hostility," Woodhouse said.

Some of the topics commonly addressed by prenups:

- Marital assets.
- Premarital assets.
- Retirement assets.
- Inheritances.
- Insurance.
- Estate plans.

A prenup can also deal with lifestyle issues.

It may spell out whether you plan to have children, and which of you



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might give up work to be home with the kids.

It could also spell out whether the spouse who gives up a career gets reimbursed if your marriage fails. And it could tackle child and spousal support provisions.

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