

What's Up With Prenups?

A prenuptial agreement is a legal document negotiated before you marry that specifies how you will divide up your assets if your marriage doesn't work out. A prenup can also help direct what happens to the assets of one spouse upon his or her death. Each party uses his or her own attorney to review the document before signing.

Some secular personal finance writers and estate planning attorneys believe every couple should have a prenup. They point out that half of all marriages end in divorce, so why risk adding financial pain to the emotional pain of a breakup? On the other hand, some Christian personal finance writers and estate planning attorneys believe no one should have a prenup. They point out that marriage is a sacred covenant and a relationship that is intended to last "until death do us part." They believe a prenuptial agreement undermines a couple's marriage and may even increase the likelihood of divorce.

Prenups are typically recommended for two reasons:

1. *Wealth protection.* When one person is bringing a lot of wealth into the marriage and the other person is not, or when one stands to receive a sizable inheritance, those in the pro-prenup camp say a prenup makes sense. I disagree.

Marriage should be entered into with the goal of oneness in all things, including finances. If one person was wealthy before getting married, that person's wealth becomes the couple's joint wealth from their wedding day forward. If you fear that marriage will put your wealth at risk, perhaps your money means more to you than your future spouse. I encourage you to hold off on your wedding until you resolve that.

2. *Other person protection.* There are situations where the breakup of your

marriage may hurt other people financially. Prenup advocates say this is another scenario where a prenup is called for. Here they may have a valid point.

Imagine this: One spouse—let's say the man—has children from a previous marriage. In order to make sure those children receive an inheritance, he could put certain assets into a revocable living trust and also use a prenup in which his new wife waives any interest in those assets should he die. Using a *revocable* trust allows him the flexibility to make changes. Perhaps when his children become adults, he will decide that his wife would benefit more than his adult children from some or all of the assets in the trust. But if he set up a trust without a prenup here's a potential problem: upon his death, his wife could attempt to claim a share of the trust assets using a process known as elective share, in which she would give up what she was entitled to as specified in his will and, depending on state law, demand up to 50 percent of his entire estate instead. However, a prenup trumps elective share. It would add a layer of protection for the children, further ensuring they will receive what their father intended for them to receive.

Still, even if you believe a prenup would make sense for your situation, there may be alternatives. Since some people cringe at the thought of using a prenup, it's worth exploring the options. Here's a real-life situation similar to the one described above where an alternative tool accomplished the same result. Frank's second wife did not get along with his children. When Frank died suddenly in a car accident, the children from his first marriage received an inheritance because he had set up irrevocable life insurance trusts for them. This was an ironclad way of providing an inheritance to those children without subjecting them to any negotiations with their stepmother.

Here are the main questions to consider regarding the use of a prenuptial agreement:

- If I am the one recommending the use of a prenup, am I overly concerned about protecting wealth I am bringing into the marriage?
- If my fiancée/fiancé is asking for a prenup, is that conveying a lack of trust in me? Am I comfortable with the request?
- Would anyone other than my spouse or me suffer financially if our marriage fails? If so, are there other ways we could protect that person besides a prenup? (Talk with a Christian estate-planning attorney about that.) If there are no viable alternatives, are we both in agreement about the use of a prenup?

In an ideal world, there would be no divorce, and hence no need for prenuptial agreements. But we do not live in an ideal world. Still, before pushing for a prenup, pray that God would search your heart and check your motives. Consider other alternatives first, and whatever you decide, make sure there is unity in the decision with your future spouse.