

## BUSINESSAGENDA

# Gay couples and the urge to merge

When should you consider combining finances?

By DAVID M. TAUBE

Since the momentous March 3 inception of same-sex marriage in the District of Columbia, the urge to merge has surged. As of June 24, the D.C. Superior Court's Marriage Bureau had recorded 2,966 "spouse-to-spouse" marriage license applications, closing in on the 3,096 "husband-and-wife" requests for all of 2009.

In your rush to hire a wedding planner, register at your favorite high-end retailer, and select your exotic honeymoon destination, have you thought about what marriage means to your finances? In the excitement of a merger, some newlyweds may jump at the chance to combine their finances. But wait, there are a few things to consider before registering your names on joint accounts.

Although most advisers would recommend that same-sex couples have a joint account to pay for ongo-

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ing, joint household expenses, it's a different story for investment money. Maintaining joint accounts builds shared decision-making, awareness of financial matters, and perhaps most importantly, trust. However, tax, legal, and practical matters offer cautions for a household account and red flags for investments.

**Taxes.** Whether you are married, civil unionized, domestic partnershiped, or simply co-habiting, the fact remains that, for taxes, the federal government does not recognize your relationship. As a married couple living in the District, you would have to file your city income taxes jointly, but would file separate federal tax returns.

There are potential federal gift taxes if one same-sex spouse or partner contributes more than the other to a joint account. Under current federal law, the portion of cash or gifts of property worth more than \$13,000 per year given by a

same-sex spouse or partner to the other spouse or partner is considered a taxable gift. No limit exists for federally recognized marriages, as spouses can freely transfer money or property to one another without tax consequences.

Same-sex spouses or partners should keep a record of how much each contributes to a joint account. To avoid having to file a gift tax return, neither half of a couple should contribute more than the \$13,000 gift limit over the amount the other half provided.

Federal estate taxes may also influence your decision to keep assets separate. Unless you can document the contributions by each same-sex spouse or partner, the IRS will include the entire value of property owned as "joint tenants" in the gross estate of the first to die.

**Asset protection.** There may be compelling legal reasons that influ-

ence your decision to keep assets separate. Depending in which state you reside, co-owned assets may be subject to the claims of your same-sex spouses' or partners' creditors. One spouse or partner may have assets he or she wishes to protect from the other who is engaged in a high-risk business or occupation.

A spouse or partner may have significant inherited family assets that need to be protected for heirs from potential loss in a future break up or divorce.

In the District and states with same-sex marriage, you can own certain assets as "tenants in the entirety," which provides married couples joint ownership with right of survivorship, without joint liability.

**Practical matters.** Each spouse or partner may have different goals for the money and approaches to how it would be invested. While one may be planning for imminent retirement and dialing back the risk level, another may be thinking about returning to school for a new career. This may take on greater importance if there is a large age difference. With the younger half's long-term goals further into the future,

the portfolio may have a significantly different (i.e., higher) risk profile.

Couples should discuss financial expectations and goals they would like to achieve, including respective and combined goals such as home ownership and retirement.

Merging spending and saving habits should also lead to a talk about your money history—credit rating and score, any troubles with credit in the past, including bankruptcy.

Newlyweds and other couples will also need to figure out who will actually pay the bills and file the tax returns. Ideally, you should address how your assets and finances will be handled in a pre- (or post-) nuptial or domestic partnership agreement.

(This article is for informational purposes only and is not financial, legal, or tax advice. Please consult with your adviser before making any decisions.)

David M. Taube, CFA, is CEO & Chief Investment Officer of Kalorama Wealth Strategies, LLC, a fee-only investment advisory and financial planning firm in the District. Reach him at 202-550-7262 or dtaube@kaloramawealth.com.