

Answer by **Claire Hetherington, Solicitor in Private Client Department at Payne Hicks Beach** first published online in Financial Times on 4 April 2018 and reproduced with kind permission https://www.ft.com/content/5b5dd9b8-3739-11e8-8eee-e06bde01c544?FTCamp=engage%2FCAPI%2Falert%2FChannel_signal%2F%2FB2B

FINANCIAL TIMES

Marriage and divorce

If I marry what tax advantages will there be?

A couple who have cohabited for 25 years ask about the financial benefits of marriage



Lucy Warwick-Ching 5 HOURS AGO

I have lived with my partner for 25 years but we have never married as we haven't felt the need. My parents keep telling me we should marry and that there are tax advantages in doing so. Please could you clarify what these are? We also have a 15-year-old son.



Claire Hetherington, solicitor at Payne Hicks Beach, says that while the idea of getting married for tax reasons is, to say the least, an unromantic proposition, there are several factors worth bearing in mind.

One of the biggest advantages is the ability for a married couple or civil partners to pass assets to each other on death free of inheritance tax (IHT). By contrast, the survivor of an unmarried couple who inherits their other half's estate may pay 40 per cent IHT on assets above £325,000 (the current tax-free allowance).

A surviving spouse who inherits their husband or wife's estate will also inherit their tax-free allowance, giving the survivor a possible total of £650,000 to leave to the children before any IHT is payable.

As a bonus, since April last year the surviving spouse can inherit the new [residence nil rate band](#)— currently £100,000 — which can be combined with their own to help allow a family home to pass to direct descendants tax-free.

It is open to the surviving spouse to make gifts to children during their lifetime, which means that provided they survive seven years from making the gift, it will have been possible to pass those assets to the next generation free of IHT.

There is considerable scope for lifetime planning too. A married couple can effectively make gifts to each other tax-free. Spouses may also wish to transfer assets between each other — such as shares or property — before selling them in order to take full advantage of both their annual exemptions from [capital gains tax](#) (CGT), currently £11,300 per person.

Married couples can rearrange their finances to reduce their overall tax bill if one partner pays a lower rate of tax than the other. For example, income-producing assets like savings and investments can be transferred into the name of the lower rate spouse. Various rules that would otherwise prevent a person from benefiting from something they had given away do not apply to spouses.

As a note of caution, the concept of “common law marriage” does not exist in England and Wales, as is sometimes mistakenly believed, and cohabiting partners do not enjoy the same rights as married couples. Also, if there is [no will in place](#), save for jointly owned assets, cohabiting couples do not have any rights to their partner's estate under the intestacy rules. Instead, under these rules the deceased's estate will pass to children at age 18 or, if there are no children, to the closest surviving relatives, usually siblings and parents.

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