

Pre-Nups - Are they worth the effort?

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Financial Agreements

Financial Agreements operate to oust the Court's jurisdiction for separating couples. For example, the Agreements can be entered into:

- before marriage / relationship (Pre-Nup agreement);
- During marriage / relationship;
- Post separation / relationship (Post-Nup agreement);
- Post divorced.

A Financial Agreement can be as broad or specific as the parties' choose. It can cover all aspects of what each party will receive in the event of separation. Alternatively, it can be extremely narrow such as to exclude any inferences received by either party. Additionally, the agreement may simply provide for the maintenance of one party in the event of separation.

Before signing a Financial Agreement, each party must receive:

- independent legal advice;
- about the advantages and disadvantages of the agreement;
- and the effect on the parties' rights.

Should your client consider a Financial Agreement?

Division of property

The Australian Law Reform Commission enquiry into the Family Law system recommends a presumption of "equal contributions" in all financial cases.

Clients who have made a significant financial contribution should consider a Financial Agreement to protect and recognise their greater contribution in the event of separation.

Succession and Estate Planning

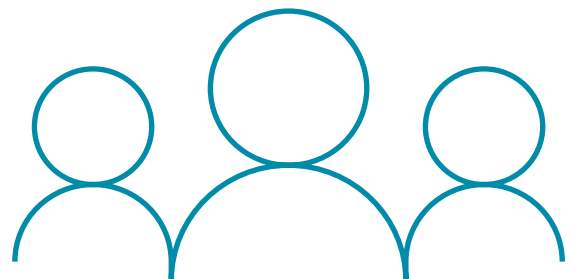
Financial Agreements can be used as a corporate vehicle to protect (or "quarantine") assets in the event of separation.

Financial Agreements can also offer protection in the case of third party claims or to protect inheritances in the case of blended families.

Stamp Duty and CGT

Stamp duty on the transfer of dutiable property pursuant to a Financial Agreement is exempt from state or territory duty or changes.

Roll-over relief for CGT is also provided for transfers made pursuant to a Financial Agreement.



Contact us

For more information about Financial Agreements or family law matters, call Jodylee Bartal on 03 9252 2506.