

Differences between cohabitation and marriage

To marry and go through life together as a couple – that is an extremely emotional step. The decision alone is influenced by highly charged emotions. However, the decision regarding the status of your life together also has a considerable financial impact. An understanding of this and the ability to deal with it actively will give you a high level of security, in particular if the unexpected happens.

Ties that stand the test of time

For married couples their wedding day is one of the greatest moments in their life. Their emotions and personal memories are immortalized in innumerable photographs and in every heart. In contrast to the emotional aspect, however, this fact sheet is dedicated to the legal and financial aspects of marriage in comparison with cohabitation. Therefore it is also important for a couple to examine the impact of a decision not to marry but to cohabit.

Legal basis

Marriage is comprehensively governed in the Swiss Civil Code as part of family law. Although cohabitation is extremely common there is no legal basis underpinning it. Therefore courts mainly rely on societal norms and contract law when dealing with such cases, which is problematic, since the provisions are not intended to govern the situation of two people living together. This problem can be avoided by concluding a cohabitation agreement.

A wide range of differences

The differences between marriage and cohabitation can be seen everywhere. For example, there is the right to information and to visit in an emergency, or questions regarding custody for joint children or regarding a formalized separation or divorce.



Federal old age and survivors' insurance (AHV)

Married couples benefit from the contributions of their spouse when it comes to the AHV. Within the framework of the splitting of contributions when calculating the pension, the contributions are taken into account and thus increase the individual pension of the spouse who earns less. In the event of death, the surviving spouse also receives a surviving spouse's pension.

Married women are entitled to a surviving spouse's pension upon the death of their husband,

- if they have one or more children (irrespective of age) at the time of the death of their husband or
- if they are 45 or older at the time of the death of their husband and they were married for at least five years.

Married men only receive a surviving spouse's pension after the death of their wife if they have children. Divorced spouses are also entitled to a pension under certain circumstances. On the other hand, the ceiling placed on the spouses' retirement pension is disadvantageous as it amounts to only one-and-a-half times the maximum individual pension. However, the AHV does not recognize any benefits for cohabiting partners.

Occupational benefits (pension fund)

In the event of death, the surviving spouse with a duty of maintenance for children receives a surviving spouse's pension. Spouses without a duty of maintenance for children receive this if they are 45 years of age or older and the marriage lasted at least five years.

Divorced spouses are also entitled to a pension from the pension fund under certain circumstances. Any benefits for cohabiting partners will be explained in the benefit regulations of the relevant pension fund. As pensions for cohabiting partners are not governed by a statutory norm it is recommended that you contact your pension fund regarding your personal situation. If benefits are stipulated, it must be demonstrated that an uninterrupted domestic partnership has been maintained in the last five years before the death of the cohabiting partner, or you must be responsible for the maintenance of joint children. In addition, in the case of most pension funds, the cohabitation must be registered.

Vested benefits

If someone who is married dies and leaves behind a vested benefits account, the lump-sum payment benefit is first and foremost paid out to the surviving spouse. Children, foster children, and, where applicable, divorced spouses may also be eligible if they are entitled to survivors' benefits under the BVG. Further beneficiaries can also be determined to a limited degree, meaning that the cohabiting partner can be a beneficiary in the case of unmarried couples, for example. In every case it is important to communicate your individual wishes regarding beneficiaries to the vested benefits institution.

Voluntary pension provision

(Tied and free pension provision)

Pillar 3a pension assets are transferred to the surviving spouse in accordance with the order of beneficiaries. In order for the cohabiting partner to be considered, it is strongly recommended that you contact the pension foundation.

The order of beneficiaries used by life insurance companies in the case of free pension provision can be structured on an individual basis under the Insurance Contract Act.

The remaining pension assets after death are transferred to the entitled beneficiaries in accordance with inheritance law and, in the case of married couples, according to the law on marital property.

Inheritance law and succession of assets

While the inheritance of assets for spouses is governed in detail in inheritance law, a surviving cohabiting partner is not deemed to be a relative and therefore does not qualify as a legal heir. Any bequests to a cohabiting partner must be individually governed via a will or inheritance contract. If a cohabiting partner has descendants, their compulsory portions must be taken into account. In the absence of descendants, the parents will inherit, but since January 1, 2023, they no longer have a compulsory portion entitlement.

Tax considerations

In the case of income and wealth taxes, the income and the assets of married persons subject to tax are assessed jointly, whereas cohabiting partners are taxed individually. Although some cantons try to mitigate the effect of this through different measures (e.g. partial splitting in the canton of Schaffhausen), in many cases this leads to a higher tax burden for dual income married couples (in particular in the case of federal taxes). In the case of inheritance and gifts, however, the tax burden favors married couples, as they are either exempt from tax or enjoy special tax privileges in all the cantons.

Considerable financial consequences for cohabiting partners

The differences described above can have serious financial consequences for cohabiting couples in certain life situations. This is particularly the case if there are joint or mutual responsibilities such as joint children or a jointly owned property, for example. However, the greatest risk has to be the death of one of the cohabiting partners. Because both the regulations of the pension funds as well as the inheritance laws are disadvantageous for cohabiting persons (reduced or no benefits and/or limited options), this risk deserves special attention.

Tax treatment depends on the individual circumstances of each client and may vary accordingly.

I. Unmarried testator

Leaving behind	Inheritance share 457 ff.	Compulsory portion		Free share	Inheritance share 457 ff.	Compulsory portion / free share
		Share of inheritance share 471	Effectively			
Mother	$\frac{1}{2}$	-	-	$\frac{1}{2}$		
Father	$\frac{1}{2}$	-	-	$\frac{1}{2}$		
	$\frac{1}{1}$	-	-	$\frac{1}{1}$		

- Parents' share
- Spouse's share
- Disposable share

II. Married testator

Leaving behind	Inheritance share 457 et seq.	Compulsory portion		Free share	Inheritance share 457 ff.	Compulsory portion / free share
		Share of inheritance share 471	Effectively			
Spouse	$\frac{3}{4}$	$\frac{1}{2}$	$\frac{3}{8}$	$\frac{3}{8}$		
Mother	$\frac{1}{8}$	-	-	$\frac{1}{8}$		
Father	$\frac{1}{8}$	-	-	$\frac{1}{8}$		
	$\frac{1}{1}$	$\frac{3}{8}$	$\frac{5}{8}$	$\frac{5}{8}$		

This chart shows the family situation without descendants. Children and grandchildren (if the children are predeceased) are entitled to a compulsory portion of $\frac{1}{2}$ of their inheritance.

Source: Credit Suisse, unless otherwise specified.

Contact us

We will be happy to arrange a personal consultation.

Call us at 0844 200 114*

For more information, visit our website at:

credit-suisse.com/financialplanning

* Telephone calls may be recorded.

**CREDIT SUISSE (Switzerland) Ltd.**

P.O. Box

CH-8070 Zurich

credit-suisse.com

The information provided herein constitutes marketing material. It is not investment advice or otherwise based on a consideration of the personal circumstances of the addressee nor is it the result of objective or independent research. The information provided herein is not legally binding and it does not constitute an offer or invitation to enter into any type of financial transaction. The information provided herein was produced by Credit Suisse AG and/or its affiliates (hereafter «CS») with the greatest of care and to the best of its knowledge and belief. The information and views expressed herein are those of CS at the time of writing and are subject to change at any time without notice. They are derived from sources believed to be reliable. CS provides no guarantee with regard to the content and completeness of the information and where legally possible does not accept any liability for losses that might arise from making use of the information. If nothing is indicated to the contrary, all figures are unaudited. The information provided herein is for the exclusive use of the recipient. Neither this information nor any copy thereof may be sent, taken into or distributed in the United States or to any U. S. person (within the meaning of Regulation S under the US Securities Act of 1933, as amended). It may not be reproduced, either in part or in full, without the written permission of CS. Your Personal Data will be processed in accordance with the Credit Suisse privacy statement accessible at your domicile through the official Credit Suisse website <https://www.credit-suisse.com>. In order to provide you with marketing materials concerning our products and services, Credit Suisse AG and its subsidiaries may process your basic Personal Data (i.e. contact details such as name, e-mail address) until you notify us that you no longer wish to receive them. You can opt-out from receiving these materials at any time by informing your Relationship Manager.

Copyright © 2023 CREDIT SUISSE. All rights reserved.