



# Master Accountants Inc.

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## Are You Sure You Are Getting Married?

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Did you know that there are tax consequences to getting married or starting a common law relationship? Before examining some of these consequences, it is important to understand that the term "spouse" refers to a person to whom you are legally married. The definition of "common-law partner," on the other hand, depends on whether or not you have children:

- ◆ If you start cohabitation with someone who is the parent of your child, you are considered to be common-law partners from the time you move in together. A "parent," for this purpose, includes an adoptive parent (whether in law or in fact) as well as a natural parent.
- ◆ If there are no children involved, you only become common-law partners after you have lived together in a conjugal relationship for 12 continuous months. The 12-month period includes any period during which you were separated for less than 90 days because of a breakdown in your relationship.

Let's now examine some of the tax consequences of getting married or starting a common-law relationship:

### Children

If you already have children, it is not normally advantageous, from a tax perspective, to get married or start a common-law relationship. To begin with, you will no longer be entitled to claim the amount for an eligible dependant for one of your children once you are married or living common-law for an entire year. You may also see a reduction in your child tax benefit since the income of your spouse or common-law partner will now be taken into consideration in determining how much you are entitled to.

Additionally, if you incur childcare expenses, they could only be claimed by the spouse or common-law partner with lower net income. If one of you does not have any income, this will effectively nullify your childcare expense claim.

### GST/HST Credit

The GST/HST credit is also based on family net income as opposed to individual net income. This means that if you're currently entitled to the

GST/HST credit, you may see a reduction once you get married or start living common-law.

Two people living separately can each earn up to approximately \$39,000 and qualify for the full credit. However, if they were to get married or start living common-law, their credit would be eliminated. Similar considerations apply to Ontario tax credit.

### Registered Retirement Savings Plans

Fortunately, there are also some tax advantages to getting married or living common-law. In particular, you will now be able to set up spousal RRSPs. This allows for substantial income-splitting opportunities if you and your spouse or common-law partner are taxed at different marginal rates.

It will also make things easier if one of you dies. If you die without a surviving spouse or a financially dependant child, the Fair Market Value of your registered retirement plans are included in income on your final return. If your retirement saving is substantial, it will be taxed at your highest marginal rate. However, if you are married or living common-law, the plan can be transferred to the survivor without any immediate tax consequences.

### Family Assets

If you give a capital property (for example, shares or mutual funds) to a non-related individual, you are deemed to have disposed of it for proceeds equal to its Fair Market Value. This will result in either a capital gain or loss on your tax return, depending on whether the Fair Market Value is greater or less than its cost to you. However, you may transfer assets to your spouse or common-law partner at their cost (unless you elect otherwise), with the result that any accrued gain is deferred until such time as the property is actually sold.

Unfortunately, you will also become subject to the attribution rules. Accordingly, you will have to continue reporting the income from the transferred property even though you no longer own it. For this reason, most financial planners advise the lower-income spouse or common-law partner to make income-producing investments that are subject to income tax, while the higher income partner pays for the mortgage and household expenses.

Another major disadvantage is that you can only have one property designated as a principal residence as a family.

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