Bloomberg
http://www.bloomberg.com/news/articles/2016-08-19/another-good-reason-not-to-get-married-courtesy-of-the-irs

Another Good Reason Not to Get Married, Courtesy of the IRS

There's a new tax break for couples who don't tie the knot.

By Ben Steverman
August 19, 2016 — 6:00 AM EDT

There are plenty of reasons to get married. Your taxes may not be one of them.

Some couples—generally those with one person who earns far more than the other—will see their tax bills fall after marriage. But for two well-paid professionals, tax bills can soar post-marriage, as their combined incomes put them in the highest tax brackets.

And well-off couples just got another financial incentive to cancel the wedding. Unmarried couples can now deduct effectively twice as much of their mortgage and home interest on their tax returns, thanks to a change this month by the Internal Revenue Service.

The IRS had little choice: A year ago, it lost a California couple's lawsuit challenging its mortgage-deduction rules. Bruce Voss and Charles Sophy were registered as domestic partners and owned two properties together in California, in Beverly Hills and in Rancho Mirage near Palm Springs. In 2006 and 2007, they had about $2.7 million in debt on their houses, and they were paying a combined interest of about $180,000 a year.

The law says taxpayers can deduct the interest on up to $1 million in mortgage debt and $100,000 in home equity financing. Voss and Sophy each tried to deduct this full amount, but the IRS audited their returns and said the $1.1 million limit had to be applied on a per-residence basis—meaning they had to share the deduction limit and lost the right to $198,415 in deductions over two years. The men sued, but a tax court sided with the IRS. They appealed to the U.S. Court of Appeals for the Ninth Circuit, which last August overturned the ruling and found, based on a close reading of the tax code, that the men should each get their own $1.1 million deduction limit.

This month, the IRS “acquiesced” in that ruling—applying it not just to Voss and Sophy and other taxpayers under Ninth Circuit jurisdiction but to all taxpayers nationwide in similar circumstances.

The IRS's new position on the mortgage deduction could be a boon to other unmarried couples who co-own property and split mortgages in expensive areas of the country, such as Manhattan or San Francisco, where median home prices top $1.1 million, according to Zillow.

But it could also pose a dilemma if those couples are planning a wedding: Get married, and you're limited to deductions of $1.1 million in mortgage and home debt.

"If you stay unmarried, you can deduct up to $2.2 million," said ReKeithen Miller, a financial planner at Palisades Hudson Financial Group, based in Atlanta. "Not to say you want to let tax policy dictate your personal life, but it's another thing for them to consider."

The ruling could also apply to friends or family who want to buy real estate together.

Still, buying real estate with friends, family, or an unmarried partner is risky and can get messy if you stop getting along or decide to break up. (A 2006 movie starring Jennifer Aniston and Vince Vaughn centered on this very scenario.)

"When you're an unmarried couple, you don't have protections," said Janis Cowhey, a lawyer and partner at Marcum, an accounting and advisory firm in New York. "As far as the law is concerned, you're legal strangers."

Property co-owners can hire lawyers to write agreements that set out some rules. Co-habitation agreements let unmarried couples agree on all aspects of the relationship—including inheritance rights, medical decisions, property, and finances. Ownership agreements are more narrowly focused on how to handle a particular property after a death or breakup, but they can still be complicated documents, Cowhey said, specifying who gets to stay in an apartment or exactly how to sell the property.

"They seem like insane details, but if you're in the middle of a breakup, they seem like important details," Cowhey said. "You're never going to agree on a real estate broker."