



## COMMON AND PERSONAL PROPERTY OF MARRIED COUPLES

**A Guide to Revised Family Code Proclamation No. 213/2000**

For any married or soon-to-be-married couple, understanding the legal framework governing their property is crucial. In Ethiopia, the Revised Family Code has modernized the law to ensure equality between spouses and to provide a clear legal foundation for how a couple's assets are handled. This guide will walk you through the key principles of this law, helping you understand the difference between common and personal property and how to manage them.

### Defining the Two Types of Property

The Revised Family Code fundamentally separates a couple's assets into two distinct categories: **common property and personal property**. This distinction is critical because it determines who owns what, who has the right to manage it, and how it will be divided if the marriage ends.

### Common Property

Common property, also known as community property, is the legal default under the Revised Family Code. The law presumes that all property acquired during a marriage belongs to both spouses equally, regardless of who earned the money or whose name is on the title.

### What is Considered Common Property?

- **Income from personal effort:** All income derived by personal efforts of the spouses and from their common or personal property shall be common property.
- **Property acquired after marriage:** All property acquired by the spouses during marriage by an onerous title shall be common property unless declared personal under Article 58 (2) of this Code.

- **Gifts or donation given jointly:** Unless otherwise stipulated in the act of donation or will, Property donated or bequeathed conjointly to the spouses shall be common property.
- **Property exchanged for common assets:** Any property acquired by selling or exchanging a common asset is also part of the common property.

## Personal Property

Personal property is the opposite of common property; it is anything that belongs to one spouse individually. This property is not shared and remains with the individual in whose name it is held. It is the spouse who claims property as personal who has the burden of proving it.

## What is Considered Personal Property? (Article 58)

- **Property owned before the marriage:** Any property, money, or assets a spouse had before the marriage is considered their personal property.
- **Gifts or inheritances received individually:** If a gift or inheritance is given to only one spouse, it remains their personal property.
- **Property acquired through the exchange of personal assets:** If you sell a personal asset and use that money to buy something new, the new property remains your personal property, provided you can prove the source of the funds and court approval.

## Management and Legal Implications

The Revised Family Code provides clear rules for how spouses must manage both common and personal property. This legal framework is built on the principle of equal rights and shared responsibility.

## Management of Common Property

The law grants equal rights to both spouses in the administration and management of common property. This means that both spouses must agree on any major decision regarding common property, such as selling a house, taking out a loan against it, or putting it up as collateral. This joint administration ensures that one spouse cannot make a decision that affects the other's property rights without their consent.

## Management of Personal Property

A spouse has the exclusive right to manage and dispose of their personal property. This means that a spouse does not need their partner's consent to sell, lease, or use their personal assets. However, income generated from this personal property, such as rent from a pre-marital house, is considered common property and must be managed jointly.

## Fundamental Presumption

The law operates on a fundamental presumption: all property is considered common unless a spouse can provide evidence to the contrary. This means that if there is a dispute over who owns a specific asset, the burden of proof falls on the spouse who claims it is their personal property.

## Practical Advice for Couples

- **Keep a Record of Personal Property:** If you are bringing significant assets into a marriage, it is highly recommended to keep a detailed list of these assets with proof of ownership (like receipts, titles, or bank statements). This documentation is essential for proving a property's personal status.

- **Transparency is Key:** Be open and transparent with your spouse about your finances. Understanding what is common and what is personal can prevent misunderstandings and disputes down the road.
- **Consult a Professional:** For important decisions involving shared property, such as buying land or a house, it is always wise to seek legal advice to ensure all legal requirements are met and your rights are fully protected.

## Tip of the Day: The Court's Approval is a Must!

Many people believe that if you sell a personal item (like a car you owned before marriage) and use that money to buy a new property while you are married, the new property will automatically be your personal property.

However, according to Article 58 (2) of the Family Code, that is not the case.

Even if you use money from your personal property to buy something new, the law says this new property will be considered common property unless you take an extra step.

To make sure the new property remains yours alone, ***you must officially ask a court to declare it as your personal property. Without a court's formal approval, your new property will be considered shared with your spouse.*** This rule is in place to prevent arguments later by making the ownership status clear from the very beginning.