

Marriage Equality Ruling Opens Door to Hundreds of Legal and Financial Benefits

In a move that reinforces the rapid shift in public sentiment regarding same-sex unions, the Supreme Court has ruled that gay marriage -- and, to quote Justice Kennedy, "the constellation of benefits" that are linked to marriage -- must be recognized and enforced in all 50 states.

Married couples enjoy spousal benefits that enable them to share each other's retirement funds in a way that makes planning easier.

The past decade has ushered in a swift, sharp turnabout in the nation's attitude toward gay rights. When Massachusetts made history in 2003 by being the first state to recognize same-sex marriage, the vast majority of the country was opposed to the practice and the federal Defense of Marriage Act (DOMA), which denied federal recognition to gay couples, was the law of the land. Today, according to a *Wall Street Journal*/NBC News poll, 57% of Americans support the Court's recent decision.¹

Navigating the Benefits

Yet once the euphoria subsides, the real work of assessing the legal and financial perks -- and in some cases potential penalties -- of marriage must begin. Here is a quick summary of some of the major planning areas to consider.

Income taxes -- For those who intend to tie the knot following the court ruling, marriage generally tends to lower a couple's income tax burden, especially if one spouse earns a lot more than the other. Couples who earn about the same -- especially high-earning professionals -- may face a marriage penalty. For instance, if both parties earn \$300,000 a year individually, they could each be in the 33% tax bracket. When their income is combined, \$300,000 becomes \$600,000 and they could be bumped into the 39.6% bracket.

For previously married couples living in states that did not recognize same-sex unions prior to the Court ruling, there are myriad income tax issues to review. *Financial Planning* recommends that couples work with their advisors and/or CPAs to assess:²

- Prior-year federal and state income tax returns. While all married couples were required to file joint or married-but-separate federal returns from 2013 onward, many states still required some couples to file state tax returns as if they were single. Filing amended state returns for prior years now might reduce past state taxes retroactively. But the amended filings could also effectively increase prior-year federal tax liabilities. Consult your tax advisor to determine whether the potential costs of amended filings might outweigh

the desired benefits. You might also consider whether retroactive filing changes could alter the amounts used to figure eligibility for various tax deductions and credits you might have claimed in those years.

- Current-year federal and state income tax planning opportunities. Consider revising 2015 Form W-4 to decrease the number of personal allowances to mitigate withholding penalties, if applicable.
- Roth conversion strategies, financial aid assistance for children going to college, health savings account (HSA) contributions, and other employee benefits. Determine the most tax-efficient strategies going forward.
- The ability to file both federal and state taxes jointly as a couple, and to take advantage of any state-level tax breaks offered to married couples.

Retirement savings and pensions -- Married couples enjoy spousal benefits that enable them to share each other's retirement funds in a way that makes planning easier. Generally, if one spouse dies, the surviving spouse can automatically inherit pension and other retirement account payments. Marriage also makes it easier to roll over a spouse's IRA or 401(k) account balance into an account owned by the surviving spouse.

Social Security benefits -- When DOMA was overturned in 2013, same-sex couples gained equal treatment for federally-regulated pension and retirement savings programs nationwide. However, Social Security's spousal and survivorship benefits for same-sex couples were limited only to couples who lived in states that explicitly recognized their marriages. Certain federal laws still require Social Security to follow state marriage policies, and some states are threatening continued resistance to the recent high court action. As of July 7, Social Security has not announced how it will modify its policies in response to the latest decision.

Property ownership and estate planning -- Married couples can automatically share money, property, and other assets between them. When one spouse dies, the other can inherit everything and generally pay no taxes. In cases where a spouse dies intestate -- without a valid will or trust -- a same-sex spouse should have automatic spousal inheritance rights, and if a will or trust is contested, the surviving spouse should have a voice in the matter.³

Health care decisions -- Similar to inheritance rights, same-sex spouses generally now have automatic rights with regard to hospital visitations and matters concerning an incapacitated spouse's health care.

Miscellaneous -- Same-sex married couples should now enjoy child custody rights, adoption rights, and access to a spouse's birth and death certificates.

This report just scratches the surface of the literally hundreds of new legalities and benefits now afforded to same-sex married couples on a federal as well as state

Marriage Equality Ruling Opens Door to Hundreds of Legal and Financial Benefits (continued)

level. But, as we know, the devil is in the details. There is sure to be much debate and adjustment as this historical change takes root and is integrated into the fabric of our culture in the months and years ahead.

If you need help making sense of the new ruling and what it means for you and your spouse, contact your financial, tax, and/or legal professional.

¹*The Wall Street Journal*, Supreme Court Rules Gay Marriage Is a Nationwide Right, June 26, 2015.

²*Financial Planning*, "Smart Tax and Estate Planning Tips for LGBT Couples," July 1, 2015.

³*Financial Planning*, "Gay Marriage Ruling: 5 Estate Planning Steps for Clients," July 1, 2015.