

## *Marriage is More Than Just a Word*

In a 5-4 decision on Wednesday, June 26, the Supreme Court found that same-sex couples legally married under state law should receive federal benefits. For many, the ruling was seen as a victory for love and a validation of the nature of the relationship between thousands of same-sex couples. Regardless of your stance on the topic, there is no denying that the decision was a landmark moment in our history.

While the focus in the news following the announcement was on the emotional aspect for these couples of finally being able to legally marry, my mind immediately jumped to the financial and legal implications. Being married means much more than a ceremony and a celebration. Marriage is a legal contract which carries with it both rights and responsibilities and is intended to be permanent.

I suspect there will be many more court cases to come as the logistics are ironed out across states and in private enterprise, but the ruling was very clear on a federal level. The decision to overturn Section 3 of the Defense of Marriage Act (DOMA) will impact more than 1,100 federal statutes governing federal benefits.

Lawyers and federal agencies are working hard to iron out of all the details and determine exactly how things will work, but broadly speaking we know that legally married same-sex couples may now be able to take advantage of a number of key benefits.

To me one of the biggest and most important federal benefits to be impacted is Social Security. It appears that same-sex spouses will now be eligible for social security spousal and survivor benefits. This is huge and will have a tremendous positive impact on the financial lives of same-sex couples. As thousands of people will now be eligible for benefits that the social security system had not planned for, it could also have a significant impact on the long term health of the system.

Similarly, same-sex spouses of members of the military may have access to military benefits including medical coverage, increased housing allowances, commissary and exchange shopping privileges, and survivor benefits, among other benefits.

Additionally, legally married same-sex couples will have the ability to file a joint federal tax return if they determine that doing so would be advantageous for them.

Beyond the direct federal benefits, there are a number of additional rights that should now be afforded to married same-sex couples. For example, they will be eligible for the Family Medical Leave Act (FMLA). The FMLA allows eligible employees up to 12 weeks of job-protected leave to care for a spouse who suffers from a serious health condition. Retirement benefits that are governed by ERISA should now have their rules extended all legally married couples. These include things like spousal rights for retirement benefits, such as 401(k)s and defined benefit plans (i.e. pensions).

The ruling will also impact estate planning for couples. Strategies to manage estate taxes, such as portability, will be available to married same-sex couples, and they will also be exempt from federal gift tax when transferring assets to each other. Keep in mind that the court's action doesn't eliminate the need for basic estate planning, including powers of attorney, especially in our mobile society – as of this moment states that have prohibited same-sex marriage are not required to recognize a lawful same-sex marriage performed in another state (though I suspect we will see a court challenge on this topic soon).

It is very important to remember that in order to benefit from the Supreme Court ruling, couples must be legally married under state law. Many couples will still be ineligible to receive federal spousal benefits, as the majority of states still do not allow same-sex marriage. I suspect this may well factor in the decision of where to live for many couples.

The ruling on June 26<sup>th</sup> was a momentous one but I suspect that there will be many more court cases to come before all is said and done. Stay tuned.

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