

Same-Sex Marriage

The New Legislative Landscape



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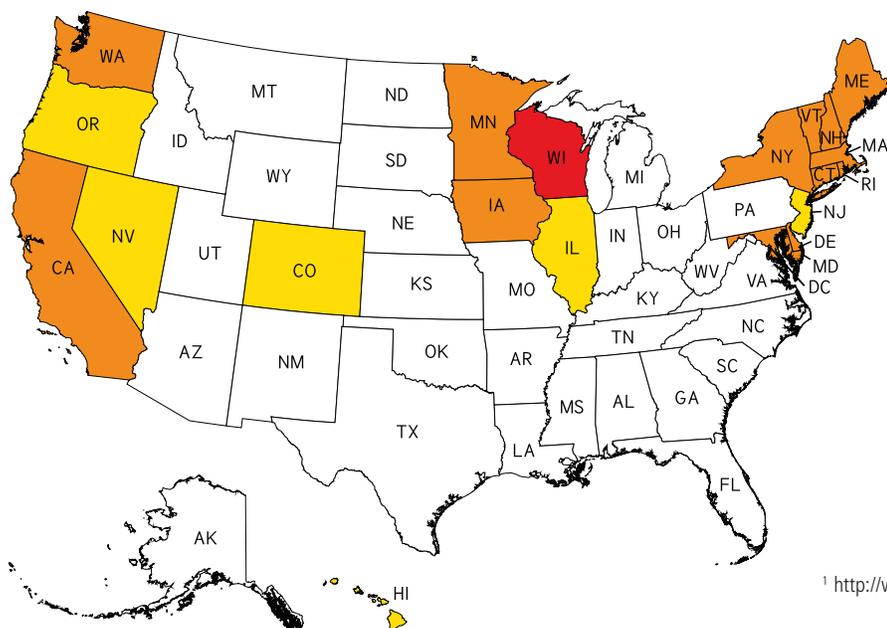
On June 26, 2013, the Supreme Court of the United States ruled that the Defense of Marriage Act (DOMA) is unconstitutional. The Supreme Court's decision is based on the premise that marriage is defined and regulated by the states. And that DOMA impacted the federal benefits that legally married people within several states were able to receive, as DOMA denied same-sex married couples the benefits that heterosexual couples receive in the 13 states that allow and recognize same-sex marriage. The Supreme Court ruled by a 5-4 decision that DOMA established "two contradictory marriage regimes within a given state," which it deemed as unconstitutional under the 5th Amendment of the United States' constitution.

In addition, the Supreme Court concluded that the proponents of Proposition 8 in California did not possess the legal standing to appeal the lower court rulings that invalidated Proposition 8. In effect, this means that the December 2010 decision of the Federal District Court that found Proposition 8 unconstitutional is now permanent and the marriage equality ban in California has been lifted.

Here's some helpful information that may help clarify how these rulings might impact you and your personal circumstances. It also outlines some important considerations for you to discuss with your attorney, accountant and financial representative.

Keeping Pace with Change

This map shows the states that allow same-sex marriage and those that provide the equivalent of state-level spousal rights to same-sex couples within the state.



Updated July 1, 2013¹

- States that issue marriage licenses to same-sex couples** (13 states and D.C.): California, Connecticut, Delaware, District of Columbia, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, Rhode Island, Vermont and Washington.
- States that provide the equivalent of state-level spousal rights to same-sex couples within the state** (6 states): Colorado (civil unions), Hawaii (civil unions), Illinois (civil unions), Nevada (domestic partnerships), New Jersey (civil unions) and Oregon (domestic partnerships).
- States that provide some statewide spousal rights to same-sex couples within the state** (1 state): Wisconsin (domestic partnerships).

¹ http://www.hrc.org/files/assets/resources/marriage_equality_laws_072013.pdf

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Digging into the DOMA Decision

With change happening so fast, it's important to look beyond the headlines to get a better understanding of the impact of the DOMA decision and what it may mean for you. Understanding the nuances of the changes is key to helping you achieve your planning goals. Marriage equality is still very much a work in progress. The final implications of the recent rulings are still being discussed and, even though the below may be accurate as of today, things may change rather quickly. With change comes opportunity but also complexity. Be sure to meet with your attorney, accountant and financial representative to understand how you may be impacted by the recent DOMA ruling. Here are some of the more impactful changes you should be aware of.

General Impact on Married Same-Sex Couples Residing in States That Recognize Their Marriage

Same-sex couples need to be legally married to take advantage of the changes resulting from this recent DOMA ruling. As of now, legally married couples living in states that recognize their marriage will gain immediate access to more than 1,000 federal benefits. For couples residing in the 37 remaining states, the results are unclear.

General Impact on Married Same-Sex Couples Residing in States That Don't Recognize Same-Sex Marriages

~~The implications of the DOMA ruling are far-reaching for legally married same-sex couples.~~
- Federal Taxes: Recently the United States Department of Treasury and the Internal Revenue Service (IRS) announced that all legally-married same-sex couples, regardless of where they live, will be recognized by the IRS as "spouses" for federal tax purposes. This means that a couple, legally married in one state but residing in a state that does not recognize their marriage, will still be treated as "spouses" for all Federal tax purposes.

- (sub-bullet) Federal Income taxes: Legally married same-sex couples residing in states that recognize their marriage can now file one federal and one state tax return. Legally married same-sex couples living in states that do not recognize their marriage can file jointly for federal income taxes and will need to file separately for state income taxes. Depending on a couple's collective incomes, filing jointly or separately might be a better option. Be sure to speak with your accountant to consider what makes most sense for you and your circumstances. And make sure that you not only discuss how best to file in future years, but also strategies for prior years, as recalculating might result in a potential refund.

- (sub-bullet) Federal Estate and Gift Taxes: In light of the DOMA ruling, same-sex married couples, regardless of where they live, have access to the unlimited marital deduction to transfer assets between spouses during life and at death. This means that a transfer to a legally married same-sex spouse is no longer considered a taxable gift during life. It also means that a same-sex married spouse can transfer any unused federal estate tax exemption at death to his or her surviving spouse. With a current federal estate tax exemption of \$5.25 million per spouse, this potentially allows a \$10.5 million estate tax exemption to same-sex married couples.

- ~~**Federal Income Taxes:** Until now, same-sex couples often had to file multiple income tax returns to cover their legal status at the state and federal levels. With the DOMA ruling, they only have to file one state and one federal tax return. Depending on a couple's collective incomes, filing jointly or separately might be a better option. Be sure to speak with your accountant to consider what makes most sense for you and your circumstances. And make sure that you not only discuss how best to file in future years, but also strategies for prior years, as recalculating might result in a potential refund. Currently, the IRS also looks to the taxpayer's state of residency to determine spousal qualifications so complications will exist unless and until the agency makes adjustments.~~
- Employee Health Care Benefits:** Health care benefits will now be extended to legally married same-sex spouses – and there will no longer be imputed income charged to the same-sex spouse whose benefits cover his or her husband or wife. Check with your Human Resources department to determine how and when you can make changes to your plan.
- Retirement and Pension Plans:** Legally recognized spouses will be entitled to survivor benefits for federally recognized pension plans. Same-sex spouses who are beneficiaries of IRAs will be entitled to more tax favorable treatment on distributions and rollovers.
- ~~**Federal Estate and Gift Taxes:** In light of the DOMA ruling, same-sex married couples have access to the unlimited marital deduction to transfer assets between spouses during life and at death. This means that a transfer to a legally married same-sex spouse is no longer considered a taxable gift during life. It also means that a same-sex married spouse can transfer any unused federal estate tax exemption at death to his or her surviving spouse. With a current federal estate tax exemption of \$5.25 million per spouse, this potentially allows a \$10.5 million estate tax exemption to same-sex married couples.~~
- Divorce:** Legally married couples residing in the state they were married in will have access to all of the divorce protections afforded by the law. However, for couples residing in a different state than that in which they were married, complexities could abound. Many states have residency requirements to be able to access the divorce procedures. Speak to an attorney about these issues to ensure that you are aware of the rules that may impact you.
- Immigration:** Bi-national, legally married, same-sex couples can now petition the Federal government for green cards or visas for a non-American same sex spouse. The Immigration rules look to the place of marriage celebration to determine spousal status.

High-Level Snapshot: How the Recent Rulings Impact Same-Sex Married Couples

If you are a same-sex couple and you...	Here's an overview of what has changed...
<p>...get married in and continue to live in a state that allows same-sex marriage.</p>	<p>In addition to being eligible for state laws and benefits related to marriage, you are now eligible for more than 1,000 federal laws and programs that come with being legally married. This means you will start to receive the federal benefits that were previously only available to married, opposite sex couples. Some of these federal benefits include: social security benefits, pension plan benefits, spousal immigration rights, income tax benefits, and gift and estate tax deductions.</p>
<p>...live in and get married in a state that allows same-sex marriage, but later move to a state that does not allow same-sex couples to get married.</p> <p>OR</p> <p>...live in a state that doesn't allow same-sex marriage, but get married in a state where it is legal.</p>	<p>You are not eligible for the state's laws and benefits related to marriage. You may have access to <i>some</i> federal rights and benefits. Depending on the agency, the federal benefits you receive will vary. For example, both Social Security and the I.R.S. determine benefits based on where you currently live, not where you were married. However, immigration law determines benefits based on where you were married, regardless of where you currently live.</p>
<p>...got married in a California during the timeframe in 2008 when same-sex marriage was legal.</p> <p>OR</p> <p>...live in California and want to have a same-sex marriage.</p>	<p>Your marriage is still valid and you will receive the state and federal rights and benefits that come with being married. For same-sex couples wanting to get married, county clerks are currently resuming issuing marriage licenses.</p>
<p>...are a foreign national in a same-sex marriage with a United States citizen.</p>	<p>Your spouse can now apply for a permanent resident visa, also known as a green card, for you.</p>
<p>...live in a state that doesn't allow same-sex marriage, but you've entered into a civil union or domestic partnership that is recognized by your state.</p>	<p>Nothing has changed. You receive the state benefits associated with your state's civil union or domestic partnership legislation. You will not receive any federal rights or benefits.</p>

MetLife does not provide tax or legal advice. Please consult your tax advisor or attorney for guidance.

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