



update

Public Sector Benefits Compliance News

July 1, 2015

U.S. Supreme Court Decision on Same-Gender Marriage

On June 26, 2015, the U.S. Supreme Court announced its decision in *Obergefell v. Hodges*. This *Update* summarizes the decision and its implications for sponsors of benefit plans.

The Decision

In a 5-4 decision, the Court ruled that the U.S. Constitution requires all states to issue marriage licenses to same-gender couples on the same terms and conditions that apply to opposite-gender couples, and to recognize same-gender marriages entered into in other states.

Justice Kennedy wrote the majority opinion, in which Justices Ginsburg, Breyer, Sotomayor and Kagan joined.¹ In essence, the Court ruled that the constitutionally-protected fundamental right to marry applies with equal force to same-gender couples.² Four justices (Chief Justice Roberts and Justices Scalia, Thomas and Alito) wrote dissenting opinions.

Implications for Group Health Plans

This ruling will make it easier to administer health coverage provided to same-gender spouses because it eliminates the need to impute income for *state* income tax purposes under the laws of some states. As a result of the Court's 2013 decision in *United States v. Windsor*,³ plan sponsors stopped imputing income for *federal* tax purposes for coverage provided to same-gender spouses. However, in some states, plan sponsors still had to impute income for *state* tax purposes. The decision in *Obergefell* eliminates this extra step in those states where this is currently required. Plan sponsors should consult with legal counsel about when to stop imputing income, as the effective date for this change could vary by state.

Public sector plans must now cover same-gender spouses to the same extent that they cover opposite-gender spouses. Plan sponsors of public sector plans that do not currently do so should work with legal counsel on a plan and timeline for complying with the decision.



Judicial Decision:

- The Decision
- Implications for Group Health Plans
- Implications for Retirement Plans

NEW! On December 9, 2015, the Internal Revenue Service released [Notice 2015-86](#), which provides guidance on how the U.S. Supreme Court's decision in *Obergefell v. Hodges* affects benefit plans. The Notice confirms that tax-qualified retirement plans are not required to make any amendments as a result of *Obergefell*. However, public sector retirement plans may need to implement operational changes in order to offer same-gender spouses any spousal benefits under the plan (including spousal consent opportunities) that are governed by state law, particularly in states whose laws prohibiting same-gender marriage were voided by the *Obergefell* decision. The Notice also confirms that health plan sponsors that permitted mid-year enrollment of same-gender spouses could do so under election change rules contained in the typical section 125 cafeteria plan.

¹ The [decision](#) is on the U.S. Supreme Court's website.

² The *Obergefell* decision has no impact on the current treatment of domestic partners or civil union partners. It applies only to the availability and recognition of legal marriage for same-gender couples. Domestic partners cannot be treated in the same manner as same-gender spouses for purposes of federal tax laws.

³ That decision was discussed in Segal July 2013 *Bulletin*, "[Implications of the U.S. Supreme Court's DOMA Decision for Public Sector Plans](#)."

Implications for Retirement Plans

The *Windsor* decision and the guidance issued afterward settled most issues for retirement plans subject to federal law. Under federal tax laws, same-gender spouses must be treated the same as opposite-gender spouses. The main consequence of the *Obergefell* decision will likely be an increase in the number of married participants generally, and costs associated with such an increase would generally be expected to be minimal.

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If you would like additional information about this news, please contact your Segal consultant or the Segal office nearest you. Segal can be retained to work with plan sponsors and their legal counsel on compliance issues.

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