

Your financial planner: A guide for same-sex couples

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In June of 2015, the Supreme Court ruled that the Constitution guarantees a right to same-sex marriage. This opens up financial planning opportunities for same-sex couples in taxes, estate planning and retirement planning.



If you're part of a same-sex couple—or a financial planner serving such clients--it's important to be aware of these changes and take advantage of the benefits. Let's examine them.

When planning for income taxes, married same-sex couples can now file a joint state tax return, along with the federal joint return. In most cases that will simplify the state filing. Your W-2s and state withholding on your paycheck at work should be adjusted to reflect the joint status at the state level.

When planning for retirement, some state and local public-employee pension plans will change to extend spousal benefits. For example, a common distribution option is to take monthly payments from the pension as "joint and 50," where the full payment is made to the retiree but upon their death, 50% of the monthly payment continues to the spouse. These distribution options may be allowed for married same-sex couples. That changes their retirement projections, lowering the need for life insurance and adding more income in cases.

Social Security for married same-sex couples has changed, granting both partners access to their spouse's work record and benefits, which could be higher than their own. For financial planners providing retirement projections, that can add more income.

The ruling made significant changes in the area of estate planning. The spousal exclusion was extended to same-sex couples. This exclusion lets a spouse leave property to the surviving spouse without paying estate taxes when the first spouse dies.

A married survivor in a same-sex couple now participates in their state's intestacy statute. If a married person dies without a will, the state's statute generally awards more property to the surviving spouse over other family members.

From a financial planner's perspective, the process remains the same. When reviewing each asset of the couple, it's important to check how it's titled and that the primary and contingent beneficiaries are in place. If the couple is using a revocable trust, it's important that assets are titled in that trust's name where appropriate and used on the beneficiary lines, according to their attorney's letter of instruction.

When an Individual Retirement Account (IRA) passes to a beneficiary, spouses get special tax treatment via the spousal rollover provision. A surviving spouse of a same-sex couple can now delay taking distributions until age 70 ½ and stretch-out those IRA distributions over their own lifetime. Financial planners often review those designations along with the attorney's instructions to ensure the beneficiary designation is correct and allows the longest stretch-out to minimize taxes. The spousal rollover is reflected inside the retirement projection, carrying that asset longer.

Gift taxes previously applied to transfers of assets between same-sex couples, but no longer. Current law allows gifts of \$14,000 to anyone free from gift tax. Amounts over that had to escape tax by using the \$5.45 million exemption equivalent, but such large gifts usually required the documentation of an attorney/CPA to file a gift tax return. Now, for example, a same-sex partner can add their spouse to the title of their house with relative ease.

On a negative note, same-sex couples can now legally divorce, but splitting assets will at least be regulated by that state's divorce statute and guidelines.

The case *Obergefell v. Hodges* changed the landscape for same-sex couples in 2015. If you're a partner in a same-sex marriage, you'll want to help educate yourself and your financial planner to take advantage of these new benefits.

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