INSIGHTS + NEWS

Obergefell v. Hodges: How the Supreme Court Decision Allowing Same-Sex Marriage Affects Estate Planning – PART I

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With the historic United States Supreme Court decision in *Obergefell v. Hodges*, individuals in same-sex marriages now have the same rights as opposite-sex couples. This is an important development for estate planners because now same-sex couples can benefit from the same estate planning techniques that have been used for years with opposite-sex married couples.

Although same-sex marriage was already legal in Massachusetts, couples here have had to plan for the myriad of ways that other states and the federal government treat them differently. Now, same-sex couples will be able to file joint income tax returns, take advantage of the unlimited marital deduction, and surviving same-sex spouses can now use any portion of the deceased spouse's unused Exclusion Amount to avoid or reduce tax liability, just the same as opposite-sex couples.

Spouses in same sex marriages will now have priority in guardianship and conservatorship nominations and will have homestead rights in most (hopefully all) states. In addition, same-sex spouses will now be able to qualify for public benefit programs, including social security survivor benefits, VA benefits, and Medicaid and Medicare spousal benefits. The *Obergefell v. Hodges* ruling is an excellent opportunity to review and update existing estate, financial, and long-term care plans, as well as to create new estate and financial plans for same sex couples. Stay tuned for our ongoing series about the impact of this landmark decision and your estate plan or long-term care plan.

Next month – The Pros and Cons of Filing Joint Income Tax Returns.

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