Edith Windsor: Saying Farewell to a Brave Woman

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In law school, I wrote papers on the tax consequences of death and divorce for same-sex married couples. The conclusions I drew in those academic exercises included advising same-sex married couples to plan for tragedy well in advance to make the most of unfortunate situations. They weren't perfect, and there certainly were tax consequences in those analyses, but they were the best solutions I could come up with, given the status of the law. The Defense of Marriage Act (DOMA) was still valid at that time, and defined marriage as between a man and a woman. This meant that even though scores of same-sex couples were legally married under the laws of their respective states, those marriages were not recognized by the federal government. The tragedy of losing a spouse was often compounded by a hefty inheritance tax bill and a none-too-subtle reminder that a same-sex marriage, despite how far we'd come, still wasn't quite the same as a heterosexual one.

Edith Windsor refused to accept that reality. When her spouse died in 2009, Edie was unable to take advantage of the unlimited spousal exemption and faced an estate tax bill of more than $350,000. Instead of accepting that outcome, she filed suit, alleging that the law unconstitutionally singled out same-sex married couples for differential treatment. The Supreme Court agreed in 2013, noting that DOMA identified a subset of state-sanctioned marriages and made them unequal and that the ultimate effect of that law was to demean those people who were in lawful same-sex marriages.

Edie's bravery, gumption, and her sheer unwillingness to accept the idea that her marriage was any less valid or real than heterosexual marriages resulted in the Supreme Court striking down DOMA's definition of marriage as unconstitutional, forever altering the legal landscape for same-sex married couples. The *U.S. v. Windsor* case played an integral role in a wave of federal court rulings striking down same-sex marriage bans and paved the way for the Supreme Court's 2015 decision *Obergefell v. Hodges*, which legalized same-sex marriage nationwide.

Thank you for all that you have done, Edie, and may you rest in peace.

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