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First marriage, now money equality

**By Kate Ashford**

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In a much anticipated move on Friday, [the United States Supreme Court ruled that gay marriage is legal nationwide](#). That means that the 13 states that previously banned same-sex marriage will no longer be able to do so. It will be unconstitutional to deny marriage licenses to gay and lesbian couples.

From this point forward, same-sex marriages will be treated just like any other marriage, everywhere in the United States. And that includes the financial benefits that

married couples are able to take advantage of that same-sex couples have not been afforded.

“It’s not so much even about a same-sex couple anymore,” said Charles Sachs, a financial planner in Miami, FL. “But imagine an unmarried couple living together versus a married couple. Once they’re legally married, a lot of things change for them.”

For same-sex couples living in states that didn’t recognise their marriage prior to Friday’s decision, here are some of the areas of their financial lives in which they’ll see changes:

Income Taxes

Before: Married same-sex couples could file taxes jointly at the federal level, but if their states didn’t recognise same-sex marriage, they had to file their state taxes separately.

After: Now joint filing is possible everywhere, simplifying taxes and making it feasible for same-sex couples to consider marriage with the same eye as heterosexual couples toward the “marriage penalty”— the phenomenon in which the combination of two incomes pushes a couple into a higher tax bracket overall. “In some of the states where people are contemplating marriage, that’s probably the biggest question,” said Steve Branton, a financial planner in San Francisco, CA.

Inheritance Taxes

Before: At the federal level, married couples could pass along retirement assets and property to a spouse upon their death, tax free, thanks [to the strike-down of the Defense of Marriage Act in 2013](#). But where states had inheritance taxes, a same-sex spouse would still pay taxes at the state level.

After: Same-sex couples can enjoy the same benefit of tax-free inheritance at both the federal and state level, saving them potentially thousands of dollars. This includes receiving inherited IRA and 401(k) retirement savings accounts, tax-free.

“In a lot of ways, the complicated estate planning is less of an issue, because they’re married,” Branton said. “Even if you don’t have an estate plan, states have a template plan for people who die that are married that favours the spouse.”

Social Security Spousal Benefits

Before: In states in which same-sex marriage wasn't recognised, a same-sex spouse couldn't access spousal benefits from Social Security. These benefits — paid out to retired US citizens who are at least age 62, who have worked over their lifetime and paid taxes into the scheme — have long been available to heterosexual married couples.

"Prior to this decision, you could file, but the Social Security Administration had no authority to grant benefits," said David Taube, a financial planner in Washington DC. "So basically your claim was on hold until something like this happened."

After: All states will have to honour claims for benefits. Spouses who are at least 62 years old can claim benefits equal to their spouse's benefits if that amount is higher than their own. Considering that for many couples in the US, one spouse earns more than the other and that most Americans count on Social Security as an income stream in retirement, this is a big benefit. Even in the event of a divorce, an ex-spouse is eligible to collect a spousal benefit from Social Security as long as the marriage lasted 10 years.

Health Insurance

Before: Even if companies offered health insurance benefits to same-sex spouses in states that didn't recognise the marriage, it was considered taxable income.

"We saw couples where their spouse was getting healthcare, but they were having to include that on their check as an income item," Branton said.

After: Same-sex spouses are now entitled to the same tax-free benefits as any other spouse. Experts recommend checking your W2 (the form Americans get showing income, pre-tax deductions and other information for tax filing each year) to make sure the tax-free part starts happening.

"Make sure you have a corrected W2 going forward," said Nanette Lee Miller, founder and co-leader of the Modern Family and LGBT Services Practice group at Marcum LLP in New York City.

Retirement Benefits

Before: In pension plans that include a spousal benefit, same-sex spouses weren't eligible to receive those retirement savings after their pensioner spouse died. And if a

same-sex spouse inherited an Individual Retirement Account or 401(k) after their husband or wife's death, they were forced to start taking withdrawals from the account by the end of the second year.

After: Same-sex spouses in all states are now eligible for pension spousal benefits. And 401(k) and IRA inheritances can now be rolled into the spouse's own accounts, where withdrawals can be delayed.

"Couples are now going to be able to do that and take advantage of those tax savings," Branton said. Same-sex couples in those 13 states now also have the option of putting retirement savings into a spousal IRA for a non-working spouse.

Experts recommend completing beneficiary forms again, even if you've already named your same-sex spouse as your beneficiary. "Complete the form again and indicate that they're your spouse," Miller said.

Adoption

Before: Not all states allowed same-sex spouses to adopt a child together.

After: Same-sex spouses will now have all the rights and responsibilities of other married adoptive parents. Co-adoption enables both parents to make decisions regarding the child's welfare and to be recognised as the legal parent of the child. One thing to note, however: If you aren't married already to your spouse who is the legal guardian of a child, adopt the child before you marry your partner for the most tax benefits.

"You cannot get an adoption credit [on your taxes] if you're adopting a spouse's child and you're married," Sachs said.

Gift Taxes

Before: Any transfer between same-sex spouses valued at more than \$14,000 would be considered a gift in states that didn't recognise the marriage. The gifter would have to file a gift tax return and it would be taken off the amount that could be inherited tax-free from his or her estate.

After: "There's still a potential gift tax issue about what happened in the past, but from this point forward, you can freely transfer money back and forth," Miller said.

State Protections

Before: In most states, spouses are automatically afforded a host of privileges simply by being the spouse — the ability to make medical decisions if your partner ends up in the hospital, for instance, or the automatic assumption of your spouse’s assets upon his death. For same-sex spouses in those 13 states, they had no such benefits.

“In the past, what would happen is that if a couple didn’t have an estate plan, the family was able to step in and take assets and make medical decisions [over the same-sex spouse],” Branton said.

After: The Supreme Court decision should mark the end of same-sex couples’ fears that they’ll be pushed aside in the event of a medical emergency or otherwise displaced during stressful times.

“We’ll see that spouse moved into the favoured position,” Branton said. That said, same-sex couples would be wise to carry estate documents with them when they travel abroad, since same-sex marriage still isn’t recognised everywhere.

“You may still experience discrimination,” Miller said. “So we’re still going to advise people to carry documents like powers of attorney and healthcare directives with them.” Take them on a flash drive wherever you go.

Overall, the Supreme Court’s decision this week levelled the marital playing field, making it possible for same-sex couples to consider marriage and its advantages and disadvantages in the same way as anyone else. “This ruling is a victory for all Americans,” Taube said. “Now there’s a whole suite of benefits that are going to be open to same-sex married couples.”

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