



IRS Proposed Regulations Recognize Same Sex Marriage

In June 2015, the Supreme Court ruled in [Obergefell v Hodges](#) that the 14th Amendment requires a state to license a marriage between two people of the same sex, and to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out of state. The IRS has issued [proposed regulations](#) to reflect that holding, which will impact married couples, employers, sponsors, and administrators of employee benefit plans and executors.

The Proposed rule would require that terms indicating sex, such as “husband,” “wife,” and “husband and wife,” will be interpreted in a neutral way to include same-sex and opposite-sex spouses. The Proposed rule would also recognize marriages for federal tax purposes if the marriage would be recognized by any state, possession, or territory of the United States. Similarly, marriages in foreign jurisdictions will be recognized if the marriage would be recognized in at least one state, possession, or territory of the United States.

The IRS also clarified that, under the Proposed rule, for federal tax purposes the term “marriage” does not include registered domestic partnerships, civil unions, or similar relationships recognized under state law. The Proposed rule stated that couples choose between relationship types deliberately, and for some there are benefits to being in a relationship that provides some but not all protections and responsibilities of marriage.

Comments for the Proposed rule are open through December 7, 2015.

10/26/2015

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