

Obergefell v. Hodges decision

On Friday, June 26, 2015, the United States Supreme Court ruled in a 5-4 decision that same-sex marriage is a fundamental right protected by the Constitution of the United States. This decision struck down the same-sex marriage ban in Kentucky, Michigan, Ohio and Tennessee previously upheld by the federal court of appeals. This decision has a nationwide-effect on same-sex marriage, making it legal in all 50 states.

Same-Sex Marriage and Employer Benefits Programs

It is still too soon to definitively outline all of the implications that the Obergefell v. Hodges decision will have on employers and their employee benefit plans. However, this decision will broadly impact a number of issues for employers and employee benefit plans such as:

- Plan Eligibility: Plan eligibility and benefits practices have largely been defined by state practice when it comes to spousal definitions. Employers should review plans to determine if changes are needed. Employers should focus on all benefits and not just group health plans. While employers are not required to offer coverage to spouses, employers should consider the risk of discrimination litigation if they only offer coverage to opposite-sex spouses.
- Employer Domestic Partner Policies: Employers may reconsider the need to offer domestic partner benefits in light of the same-sex marriage ruling.
- Taxation of Benefits: The need to impute income will be more limited as legally married couples are eligible for pre-tax benefit deductions and joint filing of federal and state tax returns.
- Continuation of Benefits: There will be implications for leave of absence policies as continuation under FMLA will no longer be based on the “state of celebration” rule. Previously, the “state of celebration” rule allowed for FMLA leave for same-sex spouses as long as they were married in a state that recognized same-sex marriage, even if the couple did not reside in a state that recognized same-sex marriage.

It is expected that the Internal Revenue Service and the Department of Labor will weigh in on these issues in the form of guidance in the coming weeks. As the implications and best practices concerning same-sex spouses and employer benefit plans continue to evolve, HORAN will continue to communicate to make employers aware of relevant issues.

Please contact your HORAN account representative with any questions.

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