
THE GROUP BENEFIT NEWS BULLETIN

IRS: Legally Married Same-Sex Couples To Be Recognized For Federal Tax Purposes

Two weeks ago, the IRS and the Treasury Department released Revenue Ruling 2013-17 on the heels of the Supreme Court's 5-4 Ruling striking down section 3 of DOMA (Defense of Marriage Act). The ruling states that for federal tax purposes, same-sex couples who are legally married within a state, whose laws authorize the marriage of two individuals of the same sex, will be treated as married.

The joint ruling applies to all legally married same-sex couples regardless if they live in a state that does not recognize same-sex marriages. The ruling does not apply to registered domestic partnerships, civil unions or other similar formal relationships that are not designated as a marriage under that state's law.

The ruling will be applied beginning September 16th, 2013; however, taxpayers may file for a refund for overpayment of income taxes provided that the statute of limitations has not expired, generally within three years from the date a tax return was filed or two years from the date the tax was paid, whichever is later.

Employers are not allowed to claim refunds of over withheld income taxes for prior years; however, employers may make withholding adjustments for the current year as long as the employer has repaid or reimbursed the employee for the over withheld income tax before the end of the calendar year.

If employees paid premiums on a pre-tax basis for employer sponsored cafeteria plans for health coverage and paid on an after-tax basis for the employee's same sex spouse, they may file for a refund of income taxes for those years within the statute of limitations. In addition, if an employer provided health coverage for an employee's same-sex spouse and included the value of that coverage in the employee's gross income, an employee may file for a refund for any year within the statute of limitations.

Employers may file for a refund or make adjustments within the statutes of limitations for any excess social security taxes and Medicare taxes paid on same-sex benefits. Further guidance from the IRS will be forthcoming in the near future on how employers are to file for these refunds and adjustments.

The ruling further states that "the IRS intends to issue further guidance on the retroactive application of the Supreme Court's opinion to other employee benefits and employee benefit plans and arrangements. Such guidance will take into account the potential consequences of retroactive application to all taxpayers involved, including the plan sponsor, the plan or arrangement, employers, affected employees and beneficiaries. The Service anticipates that the future guidance will provide sufficient time for plan amendments and any necessary corrections so that the plan and benefits will retain favorable tax treatment for which they otherwise qualify."

As always, TBPG will continue to monitor all updates and keep you informed of any pertinent information. If you have any questions, please contact your TBPG representative.

The Benefit Planning Group
Our Knowledge is the Difference
770-916-1717

As always, this material is intended for informational purposes only and is not to serve as instruction or legal counsel.