

CLIENT ALERTS

Employee Benefits - Internal Revenue Service Issues Guidance Regarding Same-Sex Marriage For Employer-Sponsored Welfare Plans

12.18.2013

December 18, 2013

In this issue:

Internal Revenue Service Issues Guidance Regarding Same-Sex Marriage For Employer-Sponsored Welfare Plans

In our June 26, 2013, Client Alert, we informed you that the United States Supreme Court ruled that Section 3 of the Defense of Marriage Act ("DOMA") is unconstitutional.

In our August 30, 2013, Client Alert, we informed you that the Internal Revenue Service ("IRS") issued guidance indicating that for federal tax purposes the IRS will recognize a marriage of same-sex individuals validly entered into in a state whose laws authorize the marriage of two individuals of the same sex - even if the state in which they are domiciled does not recognize the validity of same-sex marriages. The IRS specifically noted that this rule applies for purposes of employee benefit plans employers offer to employees.

In our September 20, 2013, Client Alert, we informed you that the U.S. Department of Labor ("DOL"), consistent with prior IRS guidance, adopted the "state of celebration" rule for employee benefit plan purposes. The DOL indicated that for purposes of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") and certain provisions of the Internal Revenue Code of 1986, as amended, over which the DOL has interpretive authority (such as the prohibited transaction rules), the term "spouse" includes individuals married to a person of the same sex who were legally married in a state¹ that recognizes such marriages, even if they are domiciled in a state that does not recognize such marriages.

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Recent IRS Guidance

On December 16, 2013, in Notice 2014-1, the IRS issued a series of detailed and technical questions and answers pertaining to the application of same-sex spouses to employer sponsored welfare plans in specific situations.

¹ The term "state" means any state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Northern Mariana Islands, any other territory or possession of the United States, and any foreign jurisdiction having the legal authority to sanction marriages.

To view the complete publication, click the link under Related Files.