

# How the DOMA Ruling Will Affect Gay Couples' Finances

By [Martha C. White](#) June 27, 2013

Yesterday's historic [Supreme Court](#) rulings will have a ripple effect on the lives and futures of gay couples, especially when it comes to their personal finances. The Court's decision on the Defense of [Marriage](#) Act means that people who marry and live in states with legalized same-sex marriage will have that union recognized by the federal government — including the Social Security Administration, Internal Revenue Service, and so on. Financial planners who work with same-sex couples say these are the biggest ways the Court's decisions will affect them if they marry.

**Social Security benefits:** When one spouse dies, the survivor has the option of claiming either his or her own Social Security benefits or those of his or her spouse, whichever is higher. "That's really important because you often have couples with a high-earning spouse and a low-earning spouse," said Dana Levit, principal at Paragon Financial Advisors. It's especially good news for gay stay-at-home parents who left the workforce to raise their kids.

In a similar vein, a gay person now should be able to collect a spouse's federal or military pension after the spouse dies, says J.T. Hatfield Charles, an independent financial planner with Raymond James.

**Estate taxes:** Millionaire, billionaire, doesn't matter: You can leave a Scrooge McDuck-sized money pile to your husband or wife and he or she won't have to pay any taxes to the I.R.S. on it. But until today, a gay person would have to pay taxes on an inheritance above the estate tax exemption threshold. At roughly \$5 million, it's not something many of us have to think about, but this is the issue that kicked off the case that culminated in DOMA's demise: Edith Windsor was handed a tax bill for more than \$363,000 by the [IRS](#) after her wife (the couple was married in Canada and lived in New York) passed away and left Windsor her estate.

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**Gift taxes:** As with the estate tax, husbands and wives can give one another anything, and the tax man never gets involved. But until today, that didn't apply to gay couples. "Let's say I bought a million dollar house and added my husband to the deed. As of yesterday, that would've been a

\$500,000 [taxable] gift to him; now there's no tax implications. That's huge," Charles says. Previously, the spouse whose name was added to that deed would have owed tax on all but the first \$14,000 (the gift tax exemption threshold for non-spouses).

**Health insurance tax:** "A big benefit I'm seeing is people are taxed on their health insurance if they get it as domestic partners, so it should eliminate that," Levit says. If you're straight and married, and your husband or wife gets health insurance through your job, that's a tax-free benefit to you. But gay people in state-recognized marriages previously had to pay federal income tax on that employer contribution — called imputed income — to their partner's health insurance premium.

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**Retirement savings rollover:** Husbands and wives get special privileges when it comes to rolling over IRAs or 401(k)s for which they're named as beneficiaries. "If I die, my wife won't have to take distributions til she's 70 1/2 years old," says John Olivieri, a partner at White & Case. That privilege is limited to spouses, although other people can inherit IRAs or 401(k)s as beneficiaries. "If we weren't married, she'd have to start taking distributions right away," he said.

**Filing taxes jointly:** Taxes are bad enough, but for gay couples in states like New York and Massachusetts where same-sex marriage is legal, it was exponentially more complicated. They could file jointly as a married couple in the state, but they had to file as singles with the IRS. Now, this process is only as complicated as it is for straight married couples — although financial advisors point out that filing jointly could mean a *bigger* tax bite for high-income couples. That's because single tax filers can make up to \$400,000 before they hit the top tax bracket of 39.6%. Married couples hit that bracket if they earn a combined \$450,000, though — a \$350,000 gap. "You push a ton of income into the highest income tax bracket," Olivieri says.

Married gay couples will have the option of amending their federal tax returns for the last three years (provided they've been married that long, of course). If filing jointly is better, couples can amend, but they don't have to, says Anna Pfaehler, chief compliance officer at Palisades Hudson Financial Group. "Same-sex couples should not feel obligated to amend a tax return to claim joint status since they filed according to the law and instructions at the time."

One big caveat, especially given the extent to which yesterday's DOMA ruling [throws the issue of gay marriage back to the state level](#): It's not yet clear how government will handle these and related legal and tax issues if people live in or move to a state that doesn't have same-sex marriage.