

Employee Plans News

Issue 2014-6, April 4, 2014

[Treatment of Marriages of Same-Sex Couples for Retirement Plan Purposes](#) – Notice 2014-19

[Plan terminations](#) - EP phone forum on May 6 at 2 p.m. EDT

Treatment of Marriages of Same-Sex Couples for Retirement Plan Purposes

Today, the IRS issued [Notice 2014-19](#), which provides guidance on how qualified retirement plans should treat the marriages of same-sex couples following the Supreme Court's decision in [United States v. Windsor](#). The *Windsor* decision invalidated Section 3 of the 1996 Defense of Marriage Act (DOMA) that barred married same-sex couples from being treated as married under federal law.

The notice:

- gives examples of Code requirements under which the marital status of the participants is relevant to the payment of benefits,
- provides guidance on how to satisfy those requirements in light of *Windsor* and [Revenue Ruling 2013-17](#), and
- describes when retirement plans must be amended to comply with *Windsor*, Revenue Ruling 2013-17, and Notice 2014-19

Recognition of marriages of same-sex couples for tax purposes

Following the *Windsor* decision, the IRS issued Revenue Ruling 2013-17, which holds that married same-sex couples are now treated as married for all federal tax purposes where marriage is a factor, if the couple is lawfully married under the laws of one of the 50 states, the District of Columbia, a U.S. territory or a foreign jurisdiction. Notice 2014-19 gives additional guidance on how qualified retirement plans should treat the marriages of same-sex couples.

Plan amendments required with respect to plan provisions inconsistent with *Windsor*

- If its terms are inconsistent with *Windsor* or Revenue Ruling 2013-17, a retirement plan must be amended to comply with *Windsor* and Revenue Ruling 2013-17. For example, a plan must be amended if it defines "spouse" by reference to section 3 of DOMA, or only as a person of the opposite sex.
- Not all plans need to be amended in order to be in compliance. An amendment generally is not required if a plan's terms are not inconsistent with *Windsor* or with Revenue Ruling 2013-17.

- Required amendments must be adopted by the later of December 31, 2014, or the applicable date under the IRS' general amendment guidance for qualified retirement plans, [Revenue Procedure 2007-44](#).

Optional amendments

- Plan sponsors may also, but are not required to, reflect the outcome of *Windsor* for periods prior to the date *Windsor* was decided.
- In such a case, a plan amendment is required.
- Such optional amendment must be adopted by the later of December 31, 2014, or the applicable date under Revenue Procedure 2007-44.

FAQs for more information

See the [FAQs](#) on the treatment of same-sex marriages for additional guidance, including:

- beneficiary designations in profit-sharing plans after *Windsor*,
- amendments that reflect the outcome of *Windsor* for periods before the decision was issued, and
- application of the outcome of *Windsor* to 403(b) plans.

Additional resources

- IRS News - [For Same-Sex Couples and Certain Domestic Partners](#)
- [Revenue Ruling 2013-17](#) – treatment of same-sex marriage for federal tax purposes
- [FAQs](#) on treatment of same-sex marriage for retirement plans