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From:

Sent: Tuesday, September 08, 2009 10:50:04 AM

To:

Cc:

Subject: RE: Employee Discounts for Same Sex Domestic Partner

The DOMA has been in effect for many years (since 1996, I think), and it is pretty unequivocal with respect to its definition of a spouse. The law is very specific. Has the taxpayer asserted that it had a reasonable belief that the benefits were excludable from wages? If so, what sort of information is the taxpayer pointing to to support its assertion that it had a reasonable belief that the benefits were excludable from wages? For example, was it relying upon a legal opinion or other authority? I think we would say that a failure to investigate the law is a form of "willful blindness" and this would not be sufficient to demonstrate a reasonable belief that the benefits were excludable from wages. I think that the claim that "I didn't know about the DOMA" would not, in and of itself demonstrate a reasonable belief. Hope this is helpful.