

Morgan Stanley

Wealth Planning for LGBTQ+ Individuals, Couples and Families

Life After the U.S. Supreme Court Decision

Marriage is now recognized as a fundamental right. All states are required to recognize valid out-of-state marriages existing on June 26, 2015, and must permit same-sex couples to marry in the state.

Following the decision, there is no distinction between single-sex and opposite-sex married couples. Single-sex married couples are eligible for benefits formerly available only to opposite-sex married couples, including:

- **SOCIAL SECURITY BENEFITS**—Access to spousal and survivor benefits.
- **RETIREMENT PLANNING OPTIONS**—Ability to name your spouse as beneficiary and make an IRA contribution on your spouse's behalf.
- **ABILITY TO FILE JOINT TAX RETURNS**—At both the federal and state level.
- **ESTATE AND GIFT TAX-RELATED BENEFITS**—Ability to give unlimited gifts to your spouse, transfer unlimited assets to your spouse free of federal estate tax and take advantage of portability on unused estate tax exemption to a surviving spouse.
- **HEALTH CARE COVERAGE**—Health care insurance from your employer may cover your spouse without being considered taxable compensation. You're also protected by the Family and Medical Leave Act, which enables you to take up to 12 weeks off without pay to care for an ailing spouse, child or certain other family members. If you have a Flexible Spending Account at work, your spouse will be able to participate.



Life After the U.S. Supreme Court Decision in *Obergefell v. Hodges*

On June 26, 2015, the U.S. Supreme Court decision in *Obergefell v. Hodges* changed everything for same-sex married couples, providing them with the same federal- and state-level benefits as their opposite-sex counterparts. With access to these benefits, you have important decisions to make when planning for life's most important milestones, from starting a family to preparing for retirement and securing your legacy.

Your Planning Checklist

The changes from the U.S. Supreme Court decision were profound and should be addressed in your wealth management plan. Below is a checklist of measures to consider as a married couple:

Talk to your tax advisor about whether to file joint tax returns at both the federal and state level

Joint returns could qualify you for deductions and credits that are not available to single filers, such as the ability to share capital gains and losses. Keep in mind that, depending on your income levels, filing jointly could mean being taxed at a higher tax rate. Consult your tax advisor to determine whether filing jointly can result in a lower tax liability.

Revisit your estate plan

Consider the unlimited marital deduction as well as the portable \$11.7 million federal estate tax exemption you and your spouse each receive.

Incorporate gifting into your estate plan

Determine what role gifting might play in your estate planning strategy. As a married couple, you can give up to \$32,000 a year to anyone you wish without incurring gift tax liability, which can reduce the size of your taxable estate.

Retitle accounts

If you decide that filing joint tax returns is right for you, consider retitling accounts so that you own assets jointly. Income and expenses associated with your holdings can then be listed in your joint tax return. In addition, jointly titled assets will pass without probate to the surviving spouse.

Review beneficiary designations

While you're reviewing account ownership, take a look at your beneficiary designations as well. By naming your spouse as beneficiary, you guarantee that assets will pass automatically to him or her in the event you die first. In addition, spousal beneficiaries have more choices when inheriting 401(k)s, IRAs and other retirement plans.

Establish a living will and durable powers of attorney

You can no longer be left out on decisions regarding the care of an incapacitated spouse. You also have a say in the event that guardianship or conservatorship proceedings are required. Nevertheless, it is a good idea for each spouse to establish a durable power of attorney and a living will to ensure his or her wishes are honored during periods when they are unable to make decisions.

Develop a retirement income strategy

Understand the options available to you for maximizing your retirement income and providing yourself with the flexibility to work, if you wish, without adversely affecting your benefits.

Optimize your health care coverage

Compare your current coverage with that offered by your spouse's employer and choose the plan that offers the most benefits at the lowest cost.

A TRADITION OF SERVICE TO THE LGBTQ COMMUNITY

At Morgan Stanley, we have a track record of excellence and commitment to the LGBTQ+ community.

- The only financial institution to sign two separate amicus briefs in 2013 before the Supreme Court advocating the preservation of marriage in California¹ and the overturn of DOMA²
- Hosted 5th annual Out on the Street U.S. LGBT Leadership Summit in 2015
- Named Top 10 Employer in Hong Kong for LGBT inclusion by not-for-profit Community Business³
- Scored 100% on the Human Rights Campaign's Corporate Equality Index for 16 consecutive years⁴
- Honored as one of the top companies for LGBT equality by Work Life Matters magazine in 2013
- Recipient of the OPEN Finance Leadership Award for our support of marriage equality⁵

¹ Hollingsworth v. Perry, 2013

² United States v. Windsor, 2013

³ Hong Kong's Top 10 Employers for LGBT Inclusion, Community Business, 2016

⁴ Human Rights Campaign, 2022

⁵ Open Finance, 2013



In a world that constantly changes, you need a tailored plan that can evolve with you. Morgan Stanley Financial Advisors are here to bring clarity and focus on what matters most to you. **Let's have that conversation.**

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