

The U.S. Supreme Court Rules Gay Spouse Is Entitled to Estate Tax Refund

The U.S. Supreme Court has ruled that a key provision of the Defense of Marriage Act (DOMA) is unconstitutional, clearing the way for the surviving spouse of a lesbian couple to receive a refund of the taxes she was forced to pay because the federal government did not consider her married to her spouse.

Although the ruling does not create a national constitutional right to same-sex marriage, it does allow same-sex couples in states that legally recognize their marriages to receive a host of federal benefits that were previously denied them, such as being able to inherit from a spouse without paying federal estate tax.

Edith Windsor and Thea Spyer became engaged in 1967 and were married in Canada in 2007, although they lived in New York City. When Ms. Spyer died in 2009, Ms. Windsor had to pay Ms Spyer's estate tax bill because of DOMA, a 1996 law that denies federal recognition of gay marriages. Although New York State considered the couple married, the federal government did not and taxed Ms. Spyer's estate as though the two were not married. Ms. Windsor sued the U.S. government seeking to have DOMA declared unconstitutional and asking for a refund of the more than \$363,000 federal estate tax she was forced to pay. As previously reported, a federal court judge from the U.S. District Court for the Southern District of New York ruled that there was no rational basis for DOMA's prohibition on recognizing same-sex marriages.

In a 5-4 decision, the U.S. Supreme Court declared that DOMA is an unconstitutional deprivation of equal liberty under the

Equal Protection Clause of the Fifth Amendment. Noting that states have the power to define and regulate marriage, the Court held that DOMA discriminates against same-sex couples who are legally married in their state. According to the court, “DOMA instructs all federal officials, and indeed all persons with whom same-sex couples interact, including their own children, that their marriage is less worthy than the marriages of others. The federal statute is invalid, for no legitimate purpose overcomes the purpose and effect to disparage and to injure those whom the State, by its marriage laws, sought to protect in personhood and dignity.”

The ruling will have many implications for same-sex couples with regard to federal estate taxes, gift taxes, Social Security benefits, and IRA beneficiary rollover rules, and more than 1,000 other federal benefits. The decision means that same-sex couples who are legally married must now be treated the same under federal law as married opposite-sex couples, at least in states that recognize same-sex marriage.

Complicating matters is that the case brought to the Supreme Court did not challenge another provision of DOMA that says no state must recognize a same-sex marriage from another state. If a couple married in a state that recognizes same-sex marriage moves to a state that does not, not all federal rights and benefits accorded married couples will apply because some benefits – like Social Security, for example – are contingent on whether the marriage is considered valid in the state where the couple currently lives.

For this to change, Congress will have to pass new laws and/or President Obama will have to change regulations. But in the meantime, Edith Windsor can expect a check from the U.S. Treasury for \$363,053 – plus interest.

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