American Benefits Council
Benefits Briefing – Health & Retirement Benefits after Windsor

September 4, 2013

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Revenue Ruling 2013-17

• For federal tax purposes, marriage is valid if valid where entered into, regardless of residence—called the “state of celebration” rule
  ▪ Gender-specific words like “husband” and “wife” include an individual married to person of the same sex
• Marriage does not include registered domestic partnerships, civil unions, and another relationships not “denominated” as a marriage
• State includes “any domestic or foreign jurisdiction having the legal authority to sanction marriages.” Marriages entered into foreign country like Canada recognized (see Treasury press release)
Revenue Ruling 2013-17

• Reasoning behind ruling
  ▪ Efficient and fair tax administration
  ▪ Domicile movement among states
  ▪ Constitutional issues with gender-specific terms in Code
  ▪ Administrative problems for individuals, employers, and plan administrators with “state of domicile” rule

• Individual tax returns
  ▪ Prior open tax years may be, but not required to be amended
  ▪ 2012 returns filed on or after September 16, 2013 must reflect marital status
FAQs

• FAQs for Same-sex Married Individuals
  ▪ Q&As 10-15 cover health benefits (and associated FICA and FUTA tax issues)
  ▪ Q&As 16-19 address qualified plans
• FAQs for Domestic Partners and Civil Unions
Effective date of Rev. Rul. 2013-17

- Applies “prospectively” as of September 16, 2013.
- Taxpayers may rely on it for filings for open tax years.
- For benefit plans, taxpayer may rely on it “retroactively” only for certain purposes
  - Filing returns and claiming credits for health or fringe benefits
  - IRS will issue further guidance on retroactive application
Retirement and Pension Plan Implications

• General plan administration changes in place by September 16, 2013
• Spousal consent procedures
  ▪ QJSA/QOSA
  ▪ QPSA
  ▪ Profit sharing beneficiary designation
  ▪ Consent to loan
• Direct rollovers
• After-death required minimum distributions
• Hardship distributions
Retirement and Pension Plan Implications

- Additional 415(b) limit for subsidized QJSA
- 10% penalty exceptions
  - Medical expenses
  - Health premiums for unemployed
  - Qualified higher education expenses
  - First-time homebuyer
- Prohibited transaction: Married for party-in-interest purposes
- Processing QDROs in post-Windsor environment
  - If valid QDRO, anti-alienation rule not violated.