



Social Security Policy Change Opens Benefits to Same Sex Married Couples

Syracuse, New York

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In response to the Supreme Court's decision in *United States v. Windsor* that struck down a portion of the Defense of Marriage Act (DOMA), the Social Security Administration (SSA) has begun to change its policies that previously restricted certain benefits to only opposite sex married couples.

Social Security offers a number of benefits to married couples. Spousal retirement benefits allow an individual who has reached age 62 to collect a separate benefit when his or her retired spouse begins to receive Social Security retirement benefits. The spousal benefit can be up to half of the full benefit given to the retired spouse. Surviving spouses are also eligible for survivor benefits based upon a deceased spouse's benefits. Prior to the decision in *Windsor*, same sex spouses were unable to claim either of these benefits.

In July, the SSA announced that it would accept benefit claims by same sex spouses. On August 9, the SSA announced it would begin processing those benefit claims. This will allow a spouse to claim spousal retirement benefits and/or survivor benefits based upon benefits earned by his or her same sex spouse.

It is important to note, however, that the Social Security benefits described above will only be extended to same sex married couples residing in the 13 states and the District of Columbia where same sex marriage is legal. It appears that the SSA will "hold" claims of couples who reside in states that do not currently permit same sex marriage, whether or not their state of residence recognizes a marriage from another jurisdiction.

Same sex couples should consider these benefits, particularly if they intend to relocate to a state that does not recognize same sex marriage. Bousquet Holstein can help you understand these benefits and where they fit into your personal and estate planning.

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