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LEGAL BULLETIN

Supreme Court Decisions in Defense of Marriage Act DOMA/Proposition 8

As most people know, on June 26, 2013, the U.S. Supreme Court struck down Section Three of the 1996 Defense of Marriage Act, DOMA, which barred the Federal Government from recognizing marriages between same-sex couples. The Court ruled unconstitutional the section of DOMA dealing with Federal recognition. Section Three was found to be in violation of the Constitution's equal protection clause. All couples who are legally married in any state are now equally entitled to Federal benefits.

At the same time, the Court ruled that ProtectMarriage, lacked standing to appeal the 2010 injunction against Proposition 8, which barred same-sex marriages in California. This left the legality of same-sex marriages intact in California.

While the specific effects of the decisions continue to unfold, the dovetailing of these two decisions allow all legally-married couples in California to be treated the same under both California and Federal law. This memo highlights only some of the issues to be considered by same-sex married bargaining-unit members under the DOMA/Prop 8 decisions. Bargaining-unit members may benefit from consulting their family law and tax advisors for counseling on specific benefits and strategies to employ them.

The main changes under the DOMA/Prop 8 decisions are in the areas of tax and health benefits. Many favorable provisions of bargained health care plans and the Federal tax code applicable to spouses, are now applicable to all legal marriages. For example:

- legally married same-sex employees are entitled to have their spouses covered under their District health care plans under equal terms;

- spousal health care benefits should no longer be taxed under Federal law, or be considered imputed income for spouses and dependents of spouses;
- married couples can jointly file Federal taxes and take advantage of the application of combined Federal tax deduction advantages;
- all legally married couples are entitled to survivor benefits under Social Security benefits
- couples are given equal coverage under the Family Medical Leave Act (FMLA).

The Court's decisions can be found at:

<http://www.supremecourt.gov/docket/domprp8.aspx>

Other resources include:

<http://www.lambdalegal.org/publications/after-doma-summary>

https://docs.google.com/viewer?url=http://www.govexec.com/media/gbc/docs/pdfs_edit/062813e2.pdf&hl&chrome=true (federal office of personnel management information to federal employees regarding DOMA.)