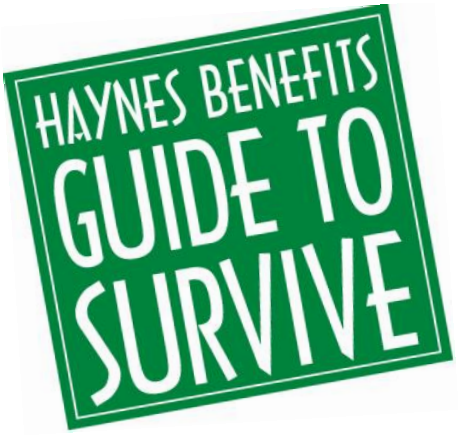

"Same sex marriages now legal in all 50 states" – So what does this mean to your employee benefit plans?

We expect state and federal agencies to issue new guidance in response to the Supreme Court's decision in *Obergefell v. Hodges*. As of right now, here is an oversimplified summary of this complicated area of law.

Health plans

If the health plan covers a "spouse," then any marriage that has been lawfully entered must be recognized by the plan, and coverage must be offered to the same sex spouse.

May the health plan require evidence of the same sex marriage? Yes, but only if the health plan requires evidence of opposite sex marriages.

May the plan cover only opposite sex couples?

- The Supreme Court's ruling does not require plan sponsors to offer coverage to a same sex spouse.
- But we believe that if a self-insured health plan limits coverage to opposite sex spouses, an employer's exposure to claims of gender discrimination (or other discrimination) under state and federal law increases significantly with this Supreme Court decision.
- In addition, issuers marketing non-grandfathered health plans that offer coverage for an opposite sex spouse must offer coverage for a same sex spouse.

Must the Plan cover spouses – same sex or opposite sex? No

- But "large employers" (with 50 or more employees) must offer health plan coverage to non-spouse dependents under the Affordable Care Act or the play or pay penalties will apply.

Other welfare benefit plans (e.g. dental, vision, FSAs)

The same answers apply except for the mandatory offer of coverage to non-spouse dependents under the ACA.

Pension Plans

Nothing is changed by the Supreme Court ruling.

The primary issue with pension plans is that IF the plan pays a "survivor benefit," then a same sex spouse must receive any survivor benefit that is payable to the "spouse."

- This rule was invoked by the IRS after the Windsor decision and has not changed.

We will provide further information as federal and state agencies issue guidance on this issue.

The applicability of the laws and regulations mentioned in this communication are complex and may vary based on your organization's specific situation. As such, the content herein is provided for educational and informational purposes only and does not contain legal advice. The information should in no way be taken as an indication of future legal results. Accordingly, you should not act on any information provided without consulting legal counsel. Please contact our office for more information on how this information is applicable to your specific situation.

Dated: July 1, 2015