

# Discover PLUS Research Topics – **Tax Implications of Same Sex Marriage Legalization**

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**Scenario:** Section 3 of the Defense of Marriage Act was declared unconstitutional in the landmark Supreme Court case, *United States v. Windsor*, in June 2013. An estate attorney would like to gain insight into the tax implications this reversal will have for her clients in same-sex marriages.

**Search:** (DOMA or Windsor or "defense of marriage act") /p tax

**Results:** Search results include program Transcripts from our “ERISA: The Evolving World” seminar as well as our “Supreme Court Review” program; publications such as *45th Annual Estate Planning Institute 2014*, and *Employment Discrimination Law & Litigation*, and *Stocker and Rikoon on Drawing Wills and Trusts*; and a form that provides instructions on how to disburse estate taxes in the event federal law does not recognize the same-sex marriage.

**Expert contributors to PLI materials on this topic:**

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The screenshot shows the Discover PLUS search interface. At the top, there are navigation links for LOGIN, HELP, REGISTER, CONTACT US, and GO TO PLI. Below this is a main navigation bar with SEARCH, BROWSE, MY BOOKSHELF, and MY HISTORY. The search results page displays the search query and filters. The search results are sorted by Relevance and show 35 total results. The first three results are:

- Same-Sex Spouse Estate Tax Will Clause**  
 Book: Estate Planning Institute (43rd Annual)  
 Form Type: Clauses, Wills/Trusts  
 Keywords: wills, trusts, estate planning; same-sex marriage; DOMA; estate tax; inheritance tax; federal taxes
- Same-Sex Marriage Laws: How They Impact the Workplace**  
 Title: Employment Discrimination Law & Litigation 2012  
 Author(s): Alan M. Korol  
 Published: 2012  
 CHB Chapter  
 ... It has been argued that societal prejudice and history sexual orientation discrimination may explain or justify the failure of same-sex domestic partners to "come out" by registering their partnership or marrying, but this argument appears increasingly vulnerable given public opinion polls that appear to approve of same-sex marriage and (emphatically) to disapprove of workplace discrimination based on sexual orientation. Employee Benefits The employment area most implicated by the Marriage Equality Act is employee benefits. Here we find a clash between state laws and federal law, resulting in a patchwork of uncertainty. The primary complications arise from the application of the federal **Defense of Marriage Act** ("DOMA" ...  
 ... The **tax** consequences of **DOMA** are very far reaching, especially as they impact employee benefits. While a "marriage" (or a civil union) state may provide married couple **tax** advantages to benefits given to same-sex spouses, no such favorable treatment can be given under federal law. ...  
 ... The vast majority of states around this time passed legislation or constitutional amendments effectively outlawing same-sex marriages. (Such legislation is presently on the ballot in Minnesota, which has not legislated in this area, while a constitutional amendment is pending in North Carolina.) **DOMA** thus assures that same-sex marriages, whether lawfully performed in one of the eight "marriage" states or abroad, will not be recognized for any federal purpose (whether it be for social security survivor benefits, income **tax** advantages, inheritance tax exemptions or for military honors) and will not be recognized for any purpose by most of the states. ...
- Estate Planning for Domestic Partners, Same-Sex Spouses and Non-Traditional Families**  
 Title: 45th Annual Estate Planning Institute 2014  
 Author(s): Erica Bell  
 Published: 2014