

LAW & ACCOUNTING

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Federal tax benefits cleared by high court DOMA ruling, experts say

Gay and lesbian married couples are expected to seek new federal tax benefits following the U.S. Supreme Court's June 26 ruling that the Defense of Marriage Act was unconstitutional.

South Florida attorneys and accountants said they expect a flurry of new business as clients seek to change their tax status.

Why? Because the IRS previously did not allow same-sex married couples to file jointly, citing the Defense of Marriage Act, according to Greenberg Traurig attorney Marvin Kirsner.

Kirsner, a tax attorney, said they should be allowed to file amended returns for the prior three years to change filing status to "married, filing jointly." **Kirsner**

"With DOMA now struck down by the Supreme Court, same-sex married couples



Kirsner

should be able to file amended returns so that they can get the benefits of filing jointly," he said. "This will result in a lower tax liability for many same-sex married couples, generating a tax refund."

Kirsner said the ruling could also impact capital gains taxes for married couples following large real estate sales on primary residences.

"A married couple filing jointly can exclude up to \$500,000 in gain, even if the title was held by only one spouse," he said.

'STILL SOME UNCERTAINTY'

Kirsner cautioned that there is "still some uncertainty about this" because the IRS might rule that such benefits apply only to couples in states where gay marriage is recognized.

At this point, the impact would only be for those who married in the 13 states where their unions are recognized, said Nanette Lee Miller, national leader of accounting



Miller

firm Marcum LLP's lesbian, gay, transgender and bisexual practice group.

A news release from Marcum said same-sex couples who were legally married ... "can now take advantage of more than 1,100 federal benefits that heterosexual married couples have been entitled to."

include:

- Joint federal tax returns.
 - Unlimited federal and state tax marital deductions.
 - Stretch rollovers for retirement plan distributions.
 - Social Security benefits.
 - Unified tax credit portability.
 - Access to immigration laws pertaining to residency for a spouse.

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**Line
Instructions for
Form 1040**

1040 U.S. Individual Income Tax Return

Estimated or final amount of tax payable. Enter here if you qualify.
 File this part early. If you file late, you may have to pay interest.
 File this part early. You may have to pay interest.

If a return is filed, attach it to Form 1040.

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