



## IMPORTANT TAX SAVING BENEFITS NOW AVAILABLE TO ILLINOIS SAME-SEX COUPLES

November 11, 2014 | Alert

### Same Sex Couples Can Receive All Tax, Estate Planning Benefits of Marriage

Marriage has long provided significant tax and estate planning benefits to married couples. One June 1, 2014, Illinois became the 16th state to allow same-sex marriage, making same-sex couples eligible to employ estate planning techniques previously unavailable to them. These techniques include setting up estate plans designed to take advantage of the Federal and Illinois unlimited marital deduction and utilizing both spouses' estate exemption amounts. Federal and Illinois estate taxes of same-sex couples can now be deferred until the surviving spouse's death, and in many cases, can be entirely eliminated by proper planning. Same-sex couples can also benefit from the portability of the Federal estate tax exemption amount, allowing the unused exemption amount of a deceased spouse to be used by the surviving spouse.

Same-sex couples may also "split" gifts to take advantage of the annual gift tax exclusion amount (which is currently \$14,000 per one year, or \$28,000 if the married couple both "split" gifts).

Marriage allows the surviving spouse of a same-sex couple to "roll over" the deceased spouse's IRAs and other qualified plan assets into his or her own IRA in order to postpone required minimum distributions, thereby reducing income taxes.

Enhanced creditor protection for a residence is also available through titling the property in tenancy by the entirety, and through the ability to transfer assets to a same-sex spouse without gift tax consequences.

Same-sex spouses now have priority to be the court-appointed guardian of their spouse, and to have authority for medical care decisions and property issues if their spouse is incapacitated.

### RELATED PROFESSIONALS

Karen K. MacKay

### RELATED PRACTICE & INDUSTRIES

Tax Advisory Services

Wealth and Succession Planning



Illinois Powers of Attorney for Health Care and Property should also be in place to designate spouses as each other's agents to make decisions in the event one is incapacitated.

For many years, Illinois opposite sex couples could enter into legally binding premarital and postnuptial agreements, thereby settling their rights to one another's property in the event of divorce or death. That same opportunity to determine rights upon divorce or death is now available to same-sex couples.

To learn more about the benefits available to same-sex married couples, please contact Karen MacKay at [312/840-7009](tel:3128407009) or [kmackay@burkelaw.com](mailto:kmackay@burkelaw.com).