

## Same-sex married couples urged to apply for Social Security benefits now

Written by Australian Business

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October 08, 2013 /**24-7PressRelease**/ -- Same-sex married couples urged to apply for Social Security benefits now

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In the wake of the Internal Revenue Service's decision that same-sex married couples are eligible to file federal income taxes the same way opposite-sex married couples do, the Social Security Administration has rushed to follow suit. Carolyn W. Colvin, Acting Commissioner of Social Security released a statement in August, announcing that Social Security has begun processing retirement spouse claims, and paying benefits, for some same-sex married couples. While the Social Security Administration works with the Department of Justice to determine the legality of it all, and to finalize processing instructions, Colvin, on behalf of the Social Security Administration, hopes to mitigate loss of those who are unsure about eligibility, by calling for them to "apply now, to protect against the loss of any potential benefits."

### Same-sex military spouses face unique benefit application challenges

While federal tax benefits have been expanded to same-sex married couples, and Social Security benefits are in the works, veterans in Texas, and other states are faced with greater obstacles. These obstacles stem from provisions in federal laws applicable to veterans that define a "spouse" to mean only a person of the opposite sex. Attorney General Eric Holder announced that the Obama administration will stop enforcing the law that blocks benefits to partners of military veterans in same-sex marriages. Still, same-sex married couples in Texas, Louisiana, Mississippi, and Oklahoma are required to apply for their marriage benefits at federal facilities, a requirement not applicable to opposite-sex couples. This requirement stems from a directive by Oklahoma Governor Mary Fallin to the National Guard, ordering it to stop processing federal benefits on the grounds that Oklahoma prohibits benefits for same-sex married couples. Texas is among the other National Guards that claim their state constitutions don't recognize same-sex marriages. Some states who currently do not recognize same-sex marriage in their constitutions have agreed to process federal benefits for same-sex married couples.

Following the U.S. Supreme Court June decision of *U.S. v. Windsor*, declaring a provision in the Defense of Marriage Act which restricted the words "marriage" and "spouse" to apply only to heterosexual unions unconstitutional, Attorney General Holder recently expressed the Obama administration's support in extending the decision to the similar provision in the veterans benefits law. He urges that allowing the provision to remain in force, defining a spouse as

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someone of the opposite sex, places lawfully married same-sex couples in a "second-tier marriage." As the various policy-makers continue to sort out the evolving rules and regulations, the public is left in limbo.

While IRS Revenue Ruling 2013-17 limit federal recognition only to same-sex marriages, as opposed to domestic partnerships, the Social Security Administration directly advises that it is working with the Department of Justice to develop and implement policy and processing instructions on the issue of whether those in civil unions or other legal same-sex relationships qualify for Social Security benefits. Thus, it encourages filing immediately to preserve your filing date, which is used to determine the start of potential benefits.

Social Security benefits for spouses vary greatly. Same-sex spouses, if awarded spousal Social Security benefits, may be eligible to receive retirement benefits based on their spouse's employment, possibly entitling them to more money where the spouse earned more, possibly allowing a delay in drawing from one's own benefits. Social Security benefit considerations may be complicated, especially as policy is changing and developing daily. Consulting with a knowledgeable Social Security attorney may help you understand and maximize your benefits, especially if you have been unjustifiably denied.