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## Marriage's Financial Pros and Cons

By [Kimberly Palmer](#)

Posted July 2, 2008

The California Supreme Court's recent decision legalizing gay marriage opens more couples the chance to ask themselves: Should we vow to spend the rest of our lives together?

But before getting swept away with visions of matching tuxes or bridal bouquets, it may pay to ponder the monetary implications of 'til death do us part. Because while marriage—both gay and heterosexual—offers many [financial benefits](#), it comes with potential disadvantages, too. (Only the state-regulated effects, however, apply to married gay couples, because the federal government does not recognize [gay marriage](#).)



(Creatas Images/Jupiterimages)

Here are eight financial facts about tying the knot:

1) Marriage can result in higher taxes. As the term "marriage penalty" implies, whether they file jointly or separately, married couples can end up paying the government more than they would have had they stayed single. This is especially true for two high earners, explains John Olivieri, a partner in law firm White & Case's private clients practice, because together they can push themselves into a higher tax bracket than they would face as single filers.

2) Marriage can also result in lower taxes. Marilyn Chinitz, matrimonial litigator and partner at Blank Rome, says that the ability to share deductions for children, mortgage payments, and other aspects of a joint life can generate significant savings. Whether these benefits outweigh the potential marriage penalty depends on the couple's

situation.

3) Sharing a single health insurance plan typically generates savings. While the rules vary by state and employer, many health insurance companies already offer benefits to domestic partners and same-sex unions; others require marriage for shared coverage.

"You will immediately save thousands of dollars in health insurance coverage if you no longer need two separate [plans]," Chinitz says.

4) Spouses don't pay estate tax. One of the trickiest challenges for gay couples is estate planning. While heterosexual spouses can inherit the wealth of their deceased spouses without paying federal estate tax, gay couples do not have that option, Chinitz says. The federal estate tax currently kicks in at \$2 million, which includes life insurance payouts.

5) Gifts between spouses are not subject to gift tax. Current law allows people to make gifts of up to \$12,000 a year without paying taxes, but gifts to a spouse are generally exempt from that limit, Olivieri says. "The big advantages [of marriage] are no taxes at death and none during life," he says.

6) Marriage can offer financial protections in the case of divorce. When married couples [split up](#), one spouse may be legally required to pay spousal support or alimony to the other. "You have protections [with marriage] that you wouldn't otherwise have," Chinitz says. With no marriage certificate, a breakup doesn't come with any financial payout—which can be seen as a positive or a negative, depending on whether you'd be the receiver or payer.

7) Social Security benefits go to the surviving spouse. Widowed spouses, as well as those who divorced after at least 10 years of marriage, are entitled to their spouses' Social Security benefits if they are greater than their own, says Kathryn Dickerson, a partner with Smolen Plevy, a Vienna, Va., law firm.

8) Property is more easily shared between married partners. Unmarried couples who jointly own a house can find themselves in a sticky situation if they split up, especially if only one person's name is on the title. The other person may have no claim to the property, even if he or she has invested significant amounts of money and labor in redoing the kitchen.

The same is true of a bank account: If unmarried partners who share a single account break up, then all of the money could go to the person who makes the first withdrawal. But for married couples, assets gained during the marriage are typically considered to be jointly owned. (Laws vary by state.) Dickerson says unmarried couples can protect themselves somewhat by making sure both names are on all titles or bank accounts.

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State, yes; federal, no

The items listed might apply at the state level, but the 1996 Defense of Marriage Act (DOMA) precludes federal benefits from inhering to same-sex couples. Social Security survivor benefits, income tax married status, estate tax exemption, and Family and Medical Leave Act eligibility are withheld from gay couples by the federal government regardless of the couples' legal status at the state level.

Some efforts are being made to redress these inequities. The Domestic Partnership Benefits and Obligations Act of 2007, introduced as S. 2521 by Sen. Joe Lieberman (D-CT) and as H. R. 4838 by Rep. Tammy Baldwin (D-WI-02), would grant marriage benefits to federal employees and their domestic partners. The Family and Medical Leave Inclusion Act, introduced as H. R. 2792 by Rep. Carolyn Maloney (D-NY-14), would grant FMLA eligibility to same-sex spouses and domestic partners.

What is interesting is that two of the Senate sponsors of S. J. Res. 43, the Marriage Protection Amendment, which would embed DOMA in the United States Constitution, are Sen. Larry Craig (R-ID) and Sen. Dave Vitter (R-LA). Craig, of course, was arrested last year after impropriety in an airport restroom, and Vitter's contact information was found last year in the records of a call girl service. They have a perverse way

Lee Bolin of AZ  
Jul 02, 2008 19:32:02 PM

of protecting marriage; meanwhile, no protections for loving couples who happen to be two women or two men.

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Marriage Pro and Con

There are some small benefits.

Take renting a car. My partner and I rented a Budget R I last summer. We had to pay an additional \$50 for him to dr the vehicle. After reading the contract a few weeks later to see if there was an early return penalty, I noted that a married spouse does not have to pay the additional \$50 fee.

And then of course there was the \$2000 we paid to have an attorney draw up a will and medical power of attorney - things that are taken for granted with heterosexual married couples.

Not that we wouldn't want a will and medical power of attorney anyway, but they are not as necessary with heterosexual married couples. Recommended but not the end of the world if you don't have them.

There are lots of other little examples, but you get the point. Homosexual couples are second class citizens.

At least we can still vote.

mwf of CO  
Jul 02, 2008 17:35:59 PM

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This article is very confusing. Points 4, 5, & 7 are in no ways benefits since they are all regulated by the federal government, so they aren't really anything to think about...since we're getting shafted for these whether we are married or not.

Point 3 is sort of the same thing...even though you may be able to share in a spouses empolyer funded health insurance plan the money both the individual and the company pay for that benefit is taxed by the federal government. When an employee takes advantage of this benefit for themselves any

christine of MA  
Jul 02, 2008 17:13:56 PM

payment they make is pre-tax...but if the spouse tags along that portion of the payment is post-tax.

In many cases this takes away the advantage of using a spouses (or domestic partners) health plan.

My partner and I were married four years ago in MA, and the monetary benefits have been minimal. What's really mattered is the right to be treated as a spouse in medical care situations the equal footing we have with our peers on issues of parenting, and the respect for our relationship that we feel from the community in general.

One of fallacies of the non-gay right (by this I mean side not correct) is that they think gay couples make the decision about marriage based on things like financial impact....only the shallow gay couples do that...just like the shallow heterosexual couples. And those marriages never last.

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