



California State Domestic Partnership Expanded

On January 1, 2020, a new law took effect expanding the availability of California state domestic partnership registration for all California couples, regardless of age and sexual orientation, so long as the couple is otherwise eligible to be married.

Prior to the new law, only (1) opposite sex couples where at least one person was over age 62 years and (2) same sex couples of any age who were otherwise eligible to be married were permitted to register in California as state domestic partners. California state domestic partnerships were originally made available so that these groups could secure certain legal rights afforded to married couples. After the U. S. Supreme Court established the constitutional right to marry for same-sex couples, some states eliminated their state domestic partnership registry, but California did not.

A California state registered domestic partnership is treated as a marriage for all purposes under California law, including for California property taxes, California income taxes, inheritance, and community-separate property. A California domestic partnership is not treated as a marriage under federal laws (e.g., for federal income tax, federal estate and gift tax, military and federal pension benefits, or immigration). However, keep in mind that in filing federal income tax returns, California state domestic partners earning community property must typically file as single or head of household and split their community property income on a separate spreadsheet similar to that used by married couples filing separately.

Now, the more widespread availability of state registered domestic partnerships in California is expected to have a significant impact on the decision to marry for opposite sex couples. On the one hand, couples who choose to register as state domestic partners instead of marrying may benefit from lower federal income taxes, especially when both persons earn similar incomes and/or are raising minor children. On the other hand, couples who make this decision will lose some federal tax benefits only provided to married couples, such as the so-called “double basis step-up” for federal income tax purposes, the unlimited estate tax marital deduction, and portability of any unused estate tax exemption.

If you are considering a California state registered domestic partnership, please keep in mind:

- California state domestic partnership registration is separate from domestic partnership registrations at the county or city level, or through your or your partner’s employer, all with separate requirements, benefits, and responsibilities.
- You will need to structure your estate plan to take into account the different obligations, rights and benefits under California law as compared to federal law.
- California will recognize as a state registered domestic partnership a substantially similar arrangement from another state, such as a Vermont civil union.

Feel free to contact us if you have further questions or would like to learn more.