MEMORANDUM/ADVISORY INFORMATION

DATE: NOVEMBER 1, 2013

TO: ALL BENEFIT ELIGIBLE FACULTY AND STAFF

RE: SUPREME COURT RULING ON THE DEFENSE OF MARRIAGE ACT (DOMA)

The Supreme Court’s ruling earlier this year invalidating certain provisions of the Defense of Marriage Act (DOMA) has positive benefit implications for legally married same sex couples here at Willamette. This advisory outlines the impact of this ruling for Willamette University benefit plans, and explains how employees who are in legal same-sex marriages can implement corresponding changes to their benefits, if applicable.

THE CHANGE IN THE LAW
By striking down a key part of DOMA, the court declared that gay and lesbian couples married in states where it is legal must receive the same federal health, tax, Social Security and other benefits that heterosexual couples receive. The terms "spouse" and "marriage" will generally be read to include same-sex couples legally married in any state that recognizes such marriages, regardless of where they currently live for purposes of benefits and corresponding tax regulations. Oregon courts have also ruled that they will recognize legal same-sex marriages established in other states for purposes of state tax treatment of benefits, even though Oregon does not yet provide for same-sex marriage. The federal government is not recognizing civil union or registered domestic partnerships as “marriage” for the purpose of this ruling.

TAX TREATMENT OF SUBSIDIZED INSURANCE PREMIUMS AND PRE-TAX PROGRAMS
In the past, it was a requirement of law that subsidized premiums of same-sex partners of employees be treated as “imputed income”, effectively taxing the benefit as if it were part of the employee’s salary. Effective for 2013, Willamette will no longer be required to impute income on benefits for same-sex spouses legally married in any state. Imputed income rules still apply to domestic partnerships.

In the past, same-sex spouses could not be beneficiaries of pretax benefits under “premium-only plans” or “health spending accounts” under Section 125 plans. With the new ruling, legally married same-sex spouses may now participate as beneficiaries under these plans, including pre-tax health premiums.

RETIREMENT PLAN BENEFICIARY REQUIREMENTS
Under the Employee Retirement Income Security Act (ERISA), spouses have legal entitlements to retirement benefits accumulated under each other’s retirement plans. Same-sex couples who are legally married are now subject to this entitlement. If someone other than an employee’s legal spouse is named as beneficiary under the University’s retirement plan, a spousal waiver form must be completed to validate that designation. Employee’s can logon to their retirement account by going to https://my.trsretire.com/webportal/retire/index.html to name beneficiaries.

HOW TO DECLARE MY SAME-SEX MARRIAGE AT WILLAMETTE AND RECEIVE THESE BENEFITS
All employees of Willamette University complete the Affidavit of Marriage and Domestic Partnership certification form to be able to receive spousal and domestic partnership benefits under our benefit programs. A new filing of this form must be made to document a legal same-sex marriage. You can find the form at www.willamette.edu/dept/hr/forms.

Contact Willamette’s Office of Human Resources if you have any questions about this advisory.