



**Subject: Important Plan Document Amendments
Please Review with Your Legal Advisor and Retain with your Plan
Records**

Dear Retirement Plan Sponsor:

Enclosed please find a draft amendment provided by Thompson Hine LLC, the provider of your defined contribution retirement plan document, which is designed to comply with recent regulatory guidance from the Internal Revenue Service ("IRS").

The IRS issued *Revenue Ruling 2013-17* and *Notice 2014-19* as a result of the U.S. Supreme Court's decision in *United States v. Windsor* (the "Windsor decision"), which struck down Section 3 of the Defense of Marriage Act of 1996 ("DOMA") as unconstitutional because it prohibited the recognition of same-sex spouses for purposes of Federal tax law, including for purposes of the Internal Revenue Code with respect to qualified retirement plans, such as your plan.

The amendment revises certain provisions in your plan document to comply with the following:

- IRS *Revenue Ruling 2013-17* requires your retirement plan to recognize the term "marriage" to include a marriage between same-sex individuals recognized under state law and the terms "spouse", "husband and wife", "husband" and "wife" to include a same-sex spouse. Your plan must recognize a same-sex marriage that was validly entered into in a state or foreign jurisdiction whose laws authorize the marriage, even if the married couple lives in a state that does not recognize the validity of same-sex marriages (the "state of celebration" rule).

NOTE: As provided in IRS *Revenue Ruling 2013-17*, a person who has entered into a registered domestic partnership, civil union or other similar formal relationship recognized under state law, but not denominated a marriage under the laws of that state, is *not* considered to be a spouse for purposes of applying the federal tax law requirements relating to qualified retirement plans, regardless of whether that person's partner is of the opposite or same sex. Accordingly, the draft amendment enclosed does not reflect corresponding changes to the plan with respect to such arrangements.

- As provided in IRS *Notice 2014-19*, qualified retirement plans must reflect the outcome of the *Windsor* decision as of June 26, 2013. Pursuant to *Revenue Ruling 2013-17*, effective September 16, 2013, qualified plans must follow the general IRS

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“state of celebration” rule and recognize a valid same-sex marriage determined under state law, even if the individuals are domiciled in a state that does not recognize the validity of same-sex marriages. However, the plan will not fail to be a qualified plan under the Internal Revenue Code solely because, between the period of June 26, 2013 to September 16, 2013, the plan’s documented administrative practice was not to recognize a same-sex marriage between individuals that did not reside in a state that recognizes the validity of same sex marriages during the period (the “state of residence” rule).

- For ease of administration, Thompson Hine LLC has made the draft amendment to the plan required by *Revenue Ruling 2013-17* effective as of June 26, 2013. Please review the draft amendment with your legal advisors, make any appropriate changes, and determine whether additional documentation to reflect your prior administrative practices for the period between June 26, 2013 and September 16, 2013 would be appropriate.
- The draft amendment has also been prepared to apply the changes to the plan required by the IRS guidance for all plan purposes for ease of administration. Please review these provisions of the draft amendment with your legal advisors and make any appropriate changes to reflect your administration of the plan.

Do you as the Plan Sponsor need to take any action with respect to the amendment provided by Thompson Hine LLC?

Yes. You should review the content of the draft amendment provided in light of the IRS guidance and the terms of your plan with your legal advisors and make any appropriate changes.

You are required to adopt a plan amendment by the end of the first regular legislative session of the legislative body with the authority to amend the plan that ends after December 31, 2014. Please provide us with a copy of your executed amendment so that we may update our records.

You should also discuss with your legal advisors whether additional documentation to memorialize your administrative practices (especially during the period between June 26, 2013 and September 16, 2013) would be appropriate.

You should retain a copy of all materials in your plan file.

Please also note that IRS *Notice 2014-19* also states that a sponsor of a qualified retirement plan may voluntarily choose to retroactively amend the plan to comply with the outcome in the *Windsor* case prior to June 26, 2013 but cautions that it may result in numerous difficult administrative challenges. If, after consulting with your legal advisor you wish to pursue this option, please let us know.

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Is there a Summary of Material Modifications for the amendments?

Yes. MassMutual checked as a default election the box indicating that between the period of June 26, 2013 to September 16, 2013 the plan's documented administrative practice was to recognize a same-sex marriage between individuals that did not reside in a state that recognizes the validity of same sex marriages during that period (the "state of residence" rule). If this was not your administrative practice, please revise and check the other box.

If you have questions, please contact your MassMutual Retirement Services representative.

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