



News Release

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SPARK INSTITUTE SEEKS POST-DOMA GUIDANCE FOR RETIREMENT PLANS

SIMSBURY, CT, August 15 – Earlier today The SPARK Institute submitted a request for guidance to the Department of Labor (“DOL”) and Department of the Treasury (“Treasury”) regarding certain issues relating to the administration of employer-sponsored retirement plans due to the U.S. Supreme Court’s (“Court”) decision about the Defense of Marriage Act (“DOMA”). The letter raises questions and concerns about determining the status of a same-sex couple based on where the individuals enter into the marriage (“State of Celebration”) or where the individuals live (“State of Domicile”). “We are concerned that following the State of Domicile rule will confuse participants and their spouses, and unintentionally create potentially detrimental traps for unwary individuals,” said Larry Goldbrum, General Counsel of The SPARK Institute. “We are requesting that the Treasury and DOL allow plan sponsors to determine a participant’s marital status based on the State of Celebration, as it will simplify plan administration,” he added.

The request also addresses concerns about potential retroactive rights of same-sex couples who were not considered married for plan purposes before the Court’s decision. “These will be some of the most difficult issues that plan sponsors will have to address,” Goldbrum noted. The letter requests that the Treasury and DOL consider the numerous implications related to plan administration and allow plan sponsors to limit, when appropriate, the retroactive effect of the Court’s decision regarding DOMA to the effective date of the decision.

Additionally, The SPARK Institute is requesting that the Treasury and DOL adopt a lenient enforcement approach that takes into account the complexity of the issues and challenges faced by plan sponsors and service providers as they await guidance. “A plan sponsor that makes a good faith effort to administer its plan post-DOMA should not be unreasonably faced with enforcement actions

on issues that could not have been anticipated and with respect to which there is little, or no, guidance or precedent,” Goldbrum stated.

The request for guidance is available on The SPARK Institute’s website at www.sparkinstitute.org/comments-and-materials.php.

The SPARK Institute represents the interests of a broad-based cross section of retirement plan service providers and investment managers, including banks, mutual fund companies, insurance companies, third party administrators, trade clearing firms and benefits consultants. Through the combined expertise of its member companies, the Institute provides research, education, testimony and comments on pending legislative and regulatory issues to members of Congress and relevant Government agency officials. Collectively, its members serve approximately 70 million participants in 401(k) plans, and the substantial majority of all participants in 403(b) plans.

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