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# Gays Marry But Still Face Legal Hurdles

By ARDEN DALE

Gabriel Blau and his husband were among the first couples to wed last year under New York's same-sex marriage law. But they decided to leave in place all the stopgaps they had created before their nuptials, such as their health-care proxy form.

"We still need all these pieces," said Mr. Blau, director of development and communications at Congregation Beit Simchat Torah, a Manhattan synagogue with a large gay population. "If we end up in a hospital in a state that is not friendly to all of our citizens, we need these protections."

Many gay couples in New York and Connecticut are learning that even though their state allows them to marry, they still must take more steps than straight couples to protect their assets. They are increasingly seeking advice from professionals about issues ranging from filing joint taxes to owning property together, advisers and attorneys said.

Gay couples have long sought to codify their unions in legal documents such as health-care proxies and life insurance policies that protect them against estate taxes. Same-sex marriage was supposed to simplify the matter, but discrepancies with federal law, which doesn't recognize gay nuptials, force some couples to continue protecting their relationship legally.

A gay couple seeking to wed recently went to financial adviser J.T. Hatfield Charles, who helped arrange for each man to be entitled to the other's pension benefits upon death—something their married status wouldn't by itself ensure.

Mr. Charles said he encourages gay couples to seek financial advice before their weddings but avoids the words "prenuptial agreement"—which can turn clients off.

"I tell them we're not doing this from the standpoint of 'when you get divorced,' but that we are forced to get protection that heterosexual married couples get automatically," said Mr. Charles, a vice president at SPC Financial Inc.

New York and federal law view differently gift and estate taxes, real estate and pension plans. A big difference is that the estate of a gay person who is the first to die in a same-sex couple may owe federal estate tax because the federal tax code doesn't recognize same-sex unions under the 1996 Defense of Marriage Act.

Frank Selvaggi, a New York accountant who married in Massachusetts when the state legalized gay marriage several years ago, and his husband long ago took out insurance policies on each other's lives to help pay an eventual federal estate tax.

"If you're a committed gay couple, and you care about not having the government take away half of

what you've accumulated, it's a smart thing to do," Mr. Selvaggi said.

Some gay couples have decided not to get married because it adds another layer of legal documents, advisers said.

Tax filings can be more complicated for married gay couples than for those not legally tied. They must file at least three tax returns: a joint state return and two individual federal returns. Similar issues arise with pension benefits, insurance and estates.

Ron L. Meyers, a New York estate attorney who works with many advisers, said he hasn't seen gay pairs rush to marry.

Some unmarried couples rely on domestic-partnership agreements that spell out, for example, how to divide property if they split. Mr. Meyers said marriage requires a weightier document like a prenuptial agreement because divorce laws are stringent.

Still, marriage has its benefits. Jennifer Hatch, president of Christopher Street Financial, an investment-advisory firm that specializes in working with gay and lesbian clients, said New York now treats same-sex couples the same as heterosexual couples, who can pass any amount to a spouse without a state estate tax.

Ms. Hatch said she urges gay clients to get married. "Get the piece of paper," she said. It is "a coupon for tax savings," at least at the state level.

For some, the answer has been to marry but keep everything separate. That can work, but taxes are still complicated.

A lesbian couple in New York—one runs a nonprofit group, the other is a psychoanalyst—turned to Judy Haselton, an adviser at Harmony Financial Advisors, for help. They sold an apartment in the city and are holding the cash while they look around for something new. Ms. Haselton is advising them on who should hold which mortgage, who will contribute to a down payment and who will take tax write-offs for it all.

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