Same-Sex Marriage
What's at Stake for Business?
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Same-sex marriage may seem revolutionary, but for American business, the idea truly is evolutionary. Some of the earliest seeds were sown in 1990 by Lotus (now a division of IBM), when it became the first publicly traded company to offer “spousal equivalent” benefits to the partners of its lesbian and gay employees.

Since then, 211 other Fortune 500 companies—including nearly three-quarters of the top 50—have followed Lotus and IBM’s path. What started as a trickle turned into a trend.

More than 7,400 companies now offer equal benefits to the same-sex partners of their employees. But divergent national, state and local laws affecting same-sex couples and their families are sending businesses into unclear territory.

For example, Massachusetts witnessed its first lawful same-sex marriages in May, while earlier in the year Ohio enacted a Defense of Marriage Act that business leaders fear will restrict their ability to offer domestic partnership benefits. Virginia law goes further and explicitly prohibits companies from providing such benefits.

Crazy Quilt of Laws

California, New Jersey, and Hawaii offer same-sex partners some benefits given to their heterosexual married counterparts. Vermont allows for civil unions that bestow on same-sex couples the rights and protections of marriage conferred by the state. Marriage licenses for same-sex couples have been issued and contested in Oregon, California, New Mexico, New York and New Jersey.

At the same time, the federal Defense of Marriage Act prohibits the U.S. government from applying the 1,138 rights and responsibilities related to marriage to same-sex couples and does not compel any state to recognize the same-sex marriages legitimated by another jurisdiction.

Much is at stake for business in this debate. Business leaders are not radical social engineers trying to define or redefine families. They respond to basic pocketbook needs and real marketplace challenges, such as competition and the need to attract and retain top workers. Creating welcoming and inclusive work environments, where gay couples are treated exactly like married heterosexual couples, makes good business sense.

Uncertainty in a corporation can be distracting and expensive. Consider a Fortune 500 company with a multistate workforce spread from jurisdiction to jurisdiction—with a mill in Vermont, a port facility in Virginia, a finishing plant in Oregon, a sales division in New Hampshire, and a corporate headquarters in Massachusetts.

What happens if New Hampshire fails to recognize the legality of same-sex marriages performed in Massachusetts, Virginia continues to deny basic domestic partner benefits and Oregon validates marriages between same-sex couples? What does such a patchwork of legal rights and partner responsibilities mean for employers and their workers and families?

Forgone Advancement

Many same-sex couples may avoid and even refuse promotions and reassignments that require transfers to places where they and their families lack critical legal protections.
For example, under state laws hostile to same-sex unions, children can become legal strangers to their parents. More than 150,000 same-sex couples are raising an estimated quarter-million children. More than two-thirds of these children live in states that don't permit or guarantee the right to a second-parent adoption, potentially denying their kids health care insurance and Social Security survivor benefits. Without a legal parent designation, some partners may not be allowed to authorize emergency medical treatment for their kids.

While Massachusetts employers will benefit by attracting the very best and brightest to live and work in the state, some of their most highly prized managers and employees will be trapped in an employment limbo that limits their flexibility to follow certain career paths.

In contrast, married heterosexual couples can rest assured that their spouses and families will remain lawfully intact no matter where they may go or what options a vibrant, multistate economy creates.

Domestic partner registries and civil unions ensconce a separate but equal principle leading to de facto segregation for the nearly 600,000 gay and lesbian couples identified in the census. The absence of marriage recognition for same-sex couples will create financial and logistical liabilities for business leaders, adversely affect employee morale, complicate employment and benefit polices hugely, and makes it harder for companies to relocate staff and their families.

America's most successful companies have paved the way to workplace equality for all of their employees, straight and gay. Same-sex marriage provides the simplest mechanism for making all of America's companies more successful and their gay and lesbian employees more productive.

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