



Firm Offers A Tax Break For Gay Attorneys

McCarter first in state to boost income to offset benefit costs

By MARIE P. GRADY

Like many married people, attorney Brian Rice was able to provide his spouse with health insurance through his employer after they were married in Massachusetts and Rice got a job at a Connecticut law firm. But unlike many married people, Brian had to pay a tax penalty.

Why? Because Rice is married to a man. Even though Connecticut legalized gay marriage in 2008, federal tax law treats company-provided benefits for same-sex spouses and non-married partners as additional imputed income. That left people like Rice paying higher taxes – until now.

McCarter & English, where Rice now works, recently became one of the first law firms in the country to adopt a policy to offset the tax penalties for gay, lesbian, bisexual and transgender employees. By providing additional gross income, the firm is attempting to do what the federal government has not: Put people with same-sex partners on equal footing when it comes to employer-provided health benefits.

“It’s a way to make sure employees are making equal pay for equal work,” said Rice, who works in the Stamford office of McCarter & English, which also has offices in Boston, Hartford, New York City, Newark N.J., Philadelphia, and Wilmington, Del.

The firm’s Executive Committee unanimously adopted the compensation policy late last month after Rice and other employees brought the inequity to its attention. Meanwhile, a bill that would put an end to the tax penalty, originally co-sponsored by U.S. Sen. Joseph Lieberman, is pending before Congress.

‘Walk The Walk’

“We make every effort to ‘walk the walk’ in the area of diversity,” said Stephen M. Vajtay Jr., managing partner of McCarter & English, in announcing the payroll policy shift.

Stephanie J. Cohen, McCarter’s partner in charge of diversity issues, added: “I am ex-

tremely proud that McCarter is among the first few law firms in the U.S. to actually adopt this policy. It is a powerful example of the firm’s commitment to creating an inclusive work environment that ensures all of its employees are treated fairly.”

The news drew praise from attorneys in other Connecticut firms. “We really want to applaud McCarter & English for what they’ve done; it’s absolutely pioneering,” said W. Glen Pierson, a partner at Loughlin & Fitzgerald.

Pierson said his 10-lawyer, Wallingford-based firm has not yet adopted a similar compensation plan, in part because the two openly gay partners – himself and Managing Partner Charles P. Reed – have been in a long-term relationship together and haven’t had a financial need for it.

“Having said that, you can certainly say that, if we ever had occasion to hire another LGBT person, that we would institute that policy,” Reed said.

Dena M. Castricone, an associate in the New Haven office of Murtha Cullina, said her firm is now considering a similar policy after learning of McCarter & English’s move. “I applaud McCarter & English; I think it’s really amazing, especially since much of corporate America hasn’t embraced similar practices.”

Castricone is founder of the Connecticut Alliance for Business Opportunities, the first statewide gay, lesbian, bisexual and transgender chamber of commerce. She was not aware if member firms had adopted such a policy, but said hers was interested to learn of the concept. “Murtha is one firm that’s been incredibly supportive.”

According to the Human Rights Campaign, 17 for-profit companies have instituted such a policy to offset tax penalties. Overall, 59 percent of Fortune 500 companies provide health coverage for domestic partners.

It’s not just employees with partner benefits who are penalized. Their employers are affected as well, through higher payroll taxes and the hassle of having to compute separate



Brian Rice, an associate at McCarter & English, said the firm will have an easier time recruiting and retaining gay and lesbian attorneys because of its decision to offset the added taxes they pay on benefits for their spouses.

withholding for employees with same-sex and opposite-sex spouses.

Gay employees with partner benefits pay on average \$1,069 per year more in income taxes than would an employee with the same coverage for a different-sex spouse, according to the Log Cabin Republicans, which is pushing the bill to end the penalty.

For Rice, the penalty was particularly cruel. After finishing law school at Northeastern University in Boston, he married Jason in Massachusetts soon after that state legalized same-sex marriage in 2004. They moved to Connecticut when Rice got a job at Shipman & Goodwin, which provided health benefits for domestic partners of employees.

Because he was diagnosed with cancer while working at the firm, Rice enrolled in the most expensive and expensive health coverage. “We were paying top dollar for the health benefits; then getting taxed on top of it,” he said.

Recruiting Tool

Rice, who is now on his spouse’s health plan, won’t benefit directly from the firm’s decision

but a number of others will. The 400-lawyer firm has five openly gay attorneys and an unknown number of LGBT staff, he said.

The cost of the policy is unknown at this point but the firm will benefit as top LGBT attorneys take notice, he said.

"You're always looking to attract and retain the best talent you can," Rice said. "This is certainly something LGBT lateral hires will be looking at. It's another metric that LGBT people are using when they're evaluating their employers. This certainly puts us ahead of many other firms."

Nationwide, Rice said only about 10 firms have adopted such a policy with another dozen considering it. In Connecticut, Rob-

inson & Cole provides domestic partner benefits but has not been asked to provide a compensation policy to offset tax penalties, according to Bruce Barth, head of the firm's Employee Benefits and Compensation Group. Likewise, Day Pitney, which has offices in Connecticut, does not have such a compensation policy but provides domestic partner benefits.

Lieberman said through an aide that he was moved by the inequity of the tax policy. "It is because the bill addressed a fundamental question of fairness that I introduced the Tax Equity for Domestic Partners and Health Plan Beneficiaries Act in 2007."

A new version of the bill was reintroduced

in the House this year.

While an increasing number of states have legalized same-sex marriage, the unions are not recognized under the federal Defense of Marriage Act. Attorney Pierson, of Loughlin & Fitzgerald, said companies like McCarter are progressively acting to fill a void.

"People always find a way of coping with injustice; they do what they have to do to make things right, even when others are not willing to make things right," Pierson said.

Castricone, the Murtha Cullina attorney, said firms providing added benefits to same-sex couples can make a statement. "It's an opportunity to tell the federal government that it's time to make things equal." ■