



HONG KONG: SAME-SEX COUPLES MUST RECEIVE SPOUSAL BENEFITS

*By Mercer's Margie Wong, Fiona Webster and Stephanie Rosseau
2 Aug 2019*

Hong Kong's Court of Final Appeal (CFA) has [ruled](#) that same-sex couples legally married overseas must receive the same spousal employment and tax benefits given to married heterosexual couples. Although Hong Kong doesn't allow gay couples to marry, same-sex marriages entered elsewhere now have legal recognition for tax and benefit purposes. Employers should review their benefit plans to ensure that same-sex couples married in another country who work in Hong Kong receive spousal benefits.

The ruling concerned an employee of Hong Kong's government who lawfully married his same-sex partner in New Zealand. Hong Kong's Civil Service Bureau refused to grant dental and medical benefits to the partner since he wasn't a spouse under Hong Kong law. The Inland Revenue Commission likewise denied joint tax status to the couple. However, the CFA ruled that a refusal to grant spousal benefits joint tax status unlawfully discriminates against the couple because of their sexual orientation.

The ruling follows a 2018 government [announcement](#) that same-sex relationships legally recognized outside of Hong Kong are considered valid for establishing a dependent relationship when foreigners apply for visas and entry permits.

RELATED RESOURCES

- [Leung Chun Kwong v Sec'y for the Civil Serv. Comm'r of Inland Revenue](#), [2019] HKCFA 19 (Court of Final Appeal, 6 Jun 2019)
- [Press Summary](#) (Court of Final Appeal, 6 June 2019)
- [Press Release](#) (Government of the Hong Kong Special Administrative Region, 18 Sep 2018)

Note: Mercer is not engaged in the practice of law, accounting or medicine. Any commentary in this article does not constitute and is not a substitute for legal, tax or medical advice. Readers of this article should consult a legal, tax or medical expert for advice on those matters.