

## **Your Taxes: Same-Sex Couples**

As more and more states legalize same-sex marriages, same-sex couples come to the realization that filing taxes can become a daunting task. While state laws vary greatly, the federal government presently follows the 1996 Defense of Marriage Act which prohibits the recognition of same-sex marriages at the federal level.

If married and living in Massachusetts, that means when you pay taxes, you're considered single for federal tax purposes and file a "married filing jointly" state resident return.

While Massachusetts recognizes same-sex marriages, other states see them as civil unions or domestic partnerships, and in others they are not recognized at all. Here are the definitions:

- Civil unions are legal contracts between partners that are recognized as having all or some of the rights of marriage, but without the historical and religious connotations.
- A domestic partnership is between individuals who are living together but are not joined in any type of legal partnership, marriage, or civil union. It recognizes the contribution of one partner to the property of the other.

Your exact state laws will affect a wide range of issues surrounding taxes, from what filing status you will use, to how your insurance benefits are taxed.

This handy chart provided by the national tax preparation chain H&R Block tells you exactly how your state treats taxes:

STATE	TYPE OF RELATIONSHIP	ALLOWED TO FILE JOINT STATE TAX RETURN?
California	Domestic partnership	Yes
	Same-sex marriage	Yes
Colorado	Designated beneficiary agreement	No
Connecticut	Same-sex marriage	Yes
Delaware	Civil union	Yes
Hawaii	Civil union	Yes
Illinois	Civil union	Yes
Iowa	Same-sex marriage	Yes
Maine	Domestic partnership	No

STATE	TYPE OF RELATIONSHIP	ALLOWED TO FILE JOINT STATE TAX RETURN?
Massachusetts	Same-sex marriage	Yes
Nevada	Domestic partnership	No state income tax
New Hampshire	Same-sex marriage	Yes (Dividends and interest income only)
New Jersey	Civil union	Yes
	Registered domestic partnership	No
New York	Same-sex marriage	Yes
Oregon	Domestic partnership	Yes
Rhode Island	Civil union	No*
Vermont	Civil union	Yes
	Same-sex marriage	Yes
Washington	Domestic partnership	No state income tax
Washington, D.C.	Same-sex marriage	Yes
	Domestic partnership	Yes
Wisconsin	Domestic partnership	No

*\*Rhode Island requires taxpayers to use the same filing status on the state return as the federal return.*

### ***The Tax Returns May be the Easy Part***

If you're in a state that allows you to file jointly with your partner, the two of you will have to complete four tax returns altogether: First, following the current federal laws, each of you would fill out a Federal Return using a single status, followed by a "dummy" Federal return filing jointly in order to fill out your State return.

### ***Simple Situations Lead to Complicated Tax Issues***

Beware the Gift Tax - Heterosexual married couples are exempt from almost all federal taxes that are levied on transfers of property or money between them. Not so for gay or lesbian couples, since their marriage is not recognized by the federal government. This means that same -sex couples must be aware of federal gift tax rules.

You may be able to claim your stay-at-home spouse: If you are working and your spouse is staying at home, your stay-at-home spouse could qualify as a dependent member of your household, and you could take an exemption for him or her.

To qualify, your spouse must:

- Have earned less than \$3,700 in gross income or unemployment benefits for the year 2011.
- Have received more than half of her support from you, in the form of food, clothing, shelter, education, medical and dental care, recreation, and transportation.
- Be a U.S. resident or citizen, or a resident of Mexico or Canada.

If you and your spouse have a child (are legal parents of the same child), one of you can claim that child as a dependent on your federal tax return. You may also be eligible for the child tax credit, and in certain cases you would be eligible to file using Head of Household status, which allows you to pay fewer taxes than if you filed as single.

Employment Benefits - Because your state recognizes your marriage, you can provide insurance to your partner through your employer's plan and vice versa. But since the federal government doesn't recognize the marriage, they see that as an extraneous benefit. If you receive health insurance from your partner, you must declare the value of that health insurance benefit as taxable income from your partner's employer on your federal tax return.

These are just a few of the tax issues that affect same-sex couples. To learn more about this topic, or other tax issues you may be facing, please contact our office for a free consultation.

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