



# State tax labyrinth awaits same-sex couples

Uneven recognition of same-sex marriage will make for a complicated tax year

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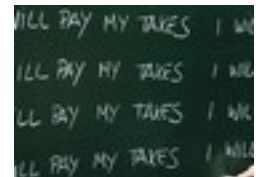


An intimidating patchwork of state laws awaits financial advisers and accountants who are preparing their same-sex married clients for the impending tax season.

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Last year's Supreme Court decision in *United States v. Windsor* signified the federal government's recognition of same-sex marriages. One of the major benefits of the outcome is the fact that married gay couples can file federal returns jointly, provided they got hitched in a state that recognizes the marriage.

“The tax code benefits married couples in many ways: the pooling of income, greater deductions and assigning dependents to both partners rather than one,” said Joseph Henchman, vice president of legal and state projects at the Tax Foundation. “For those who live in states that recognize it, married couples can file jointly at the federal and state level, so there's less paperwork for them and hopefully some financial advantages.”



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versus previous seasons, and tax professionals will need to determine how differences in state law and recognition of marriage will affect their

Still, there's a daunting task ahead of advisers: This year's tax rules will be entirely different for this filing season

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clients. For those with clients in states that don't recognize same-sex marriage, there still will be plenty of paperwork.

A recent paper from the Tax Foundation **reveals that there are 22 states that don't recognize same-sex marriage** while requiring taxpayers to reference their federal return when they file for state income taxes.

Indeed, Arizona, Kansas, North Dakota, Ohio and Wisconsin tell same-sex couples to split their income on two single returns based on a state-provided schedule, according to the Tax Foundation.

In Georgia, Idaho, Indiana, Kentucky, Louisiana, Michigan, Nebraska, North Carolina, Oklahoma, South Carolina, Virginia and West Virginia, same-sex taxpayers will need to complete “dummy” federal single tax returns and use that information to calculate their state tax liability. Dummy federal returns are not sent to the federal government, but only used for state-level tax calculations.

In Colorado, Missouri and Oregon, same-sex taxpayers can file jointly. Meanwhile, Alabama tells same-sex filers to divide their income according to a ratio. Finally, Montana will advise gay couples not to file jointly, but the state does not verify taxpayers' marital status, according to



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the Tax Foundation.

Advisers who work with same-sex couples — particularly those who live in states that don't recognize gay marriages — are grappling with a litany of tax issues as April draws nearer. There's the matter of tracking exactly how states view the marriages in the context of income tax laws, but also whether it makes sense to amend past federal returns.

Scott E. Squillace, founder of Squillace & Associates PC, noted that he has spent many hours taking stock of his gay clients' tax situations.

“The IRS has taken the position that it will allow people to amend their income, estate and gift tax returns for the last three years, so you better run the numbers and see if you're in a better or worse position if you're married to file the amendment [to your past returns],” he said.

Clients need to figure out whether filing an amendment as a married couple would put them in a higher bracket and whether they may be due for refunds or face higher liabilities in the form of the marriage penalty, Mr. Squillace added.



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