

TAX IMPLICATIONS OF THE MARRIAGE EQUALITY ACT

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The new Marriage Equality Act Raises Important Tax Concerns. It has been just over a month now since New York became the sixth state in the nation to allow same-sex couples to head to the altar to take their wedding vows.

The trailblazing Marriage Equality Act, which took effect on July 24, 2011, grants same sex couples the same legal rights as heterosexual couples and applies to all legally performed marriages regardless of where the ceremony took place.

With the passage of the bill, which applies to all taxes administered by the New York State Department of Taxation and Finance, are a host of tax-related considerations ranging from personal income tax to estate planning that need to be addressed in 2011 and 2012 by those couples entering into marriage.

The following questions and answers help shed light on key changes brought about by the new measure:

How do same-sex couples file their Federal and NYS tax returns?

For same-sex couples married before December 31, 2011, the 2011 tax returns filing status for NYS tax returns will be either Married Filing Joint or Married Filing Separate. Since the Federal government does not recognize same-sex marriages, the filing status for both individuals would be either Single or Head of Household, if qualified.

What is the added costs of the filing methods that are now required?

To complete the required New York return(s), a married same-sex couple must re-compute their Federal income tax return(s) using a married filing status, applying all the Federal rules for married taxpayers. That return should not be submitted to the IRS. The return(s) should only be used to complete your New York return(s) and kept it with your tax documents. Therefore, the cost of preparing at least one extra return will be incurred.

It's a good idea that couples prepare their NYS tax returns using both statuses to determine which method gives them the best benefit.

I understand that some of the benefits available to heterosexual couples are available to same-sex couples such as domestic partner health insurance coverage. How does this change impact the tax circumstances of married same-sex couples?

The cost incurred by an employer providing health insurance to married or unmarried same-sex couples is taxable to the employee for Federal purposes and is included in the employee's Form W-2. For married same-sex couples, that cost will not be taxable for NYS purposes and will need to be adjusted on the NYS income tax return filing of the employee.

Is there anything that same-sex couples need to do now to prepare for the impacts on their 2011 tax filings?

An employee should consider revising his/her NYS withholding information with their employer to reflect the new filing status, dependency exemptions and income or deduction changes.

If you make estimated tax payments, you should re-compute your estimate based on a married filing status.

Same-sex married couples who are married as of December 31, 2011, will be considered married for the entire year. The Act is not retroactive. Therefore, a same-sex married couple who was legally married in another state prior to July 24, 2011, is not married for New York tax purposes until July 24, 2011, and may not use a married filing status prior to tax year 2011.