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## Same-sex marriage tax breaks: Are married LGBTQ couples

By [James Dennin](#)

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Few people would claim to love doing [their taxes](#), but tax day is unarguably more difficult for some than it is for others. While confusing tax software might be a hurdle for one person, freelancers may earn income in multiple states and have to pay [estimated taxes](#) four times a year.

Tax day, which falls on [April 17](#) this year, may also pose extra headaches for LGBTQ households, according to a recent [Credit Karma](#) study. In fact, the survey of 155 same-sex spouses found that more than a quarter of participants are still unsure about which filing status they should choose.

Around 6% of survey respondents — all of whom exchanged vows before same-sex marriage became legal nationwide — indicated they planned to file both their state and federal tax returns as single or head of household. According to Credit Karma, this could indicate they're [leaving money](#) on the table.

That's in addition to other troubling findings on the financial fates of LGBTQ Americans, who face a substantial earnings gap through a combination of workplace discrimination and other factors, according to a 2016-2017 report by the financial services company [Prudential](#).

Sexuality-driven wage gaps can add up to tens of thousands of dollars in lost earnings over a career. [Prudential](#)

### **Double-check your filing status**

Choosing the incorrect filing status can lead to a number of tax problems ranging from [mildly annoying](#) to expensive.

Accidentally claiming benefits you're not legally entitled to, for example, might result in having to submit your return a second time. It could even prompt the IRS to initiate an audit. On the other hand, filing as single when you're actually married or have dependents means you'll miss out on a larger standard deduction — though there may be exceptions, Janis Cowhey, a tax attorney and partner at Marcum LLP's [Modern Family & LGBT Services](#) unit, said in a phone interview.

“Each couple is very unique,” Cowhey said. “The only generalities you can say is if you have one person with a very high income and one person with a very low income, [that] by getting married and filing joint, they’ll pay less. But if you have two high earners, you may end up paying more.”

If you’re in the latter camp, Cowhey said, it makes sense to hire an accountant to help you weigh the pros and cons.

## Claim the adoption tax credit

More likely, LGBTQ couples may be unaware of certain benefits that could help lower their overall tax bill, Christina Taylor, a Credit Karma tax specialist, said in a phone interview. Sixty percent of Credit Karma survey respondents were unaware of the adoption tax credit, Taylor said, despite the fact that same-sex couples are four times more likely to adopt than other couples.

“This year, the adoption credit is up to \$13,570. It’s one of the largest credits out there, it’s per child you adopt and you can claim it as soon as you start incurring adoption expenses,” Taylor said. “But same-sex married couples don’t seem to be taking advantage of that.”

Even as the federal filing process has been standardized, adoption credits are still a point of confusion, Andrea Wolinetz, vice president of business development at Viacom, said in a phone interview.

Wolinetz, who married her wife in 2011 — before the Supreme Court ruling in [Obergefell v. Hodges](#) effectively legalized same-sex marriage nationwide — said many attorneys still recommend [second-parent adoptions](#), in which a second parent adopts the child without the first parent losing any rights, for same-sex spouses starting families.

“The fear was that if the [federal government] recognizes our marriage and our adoption, could claiming the adoption deduction be perceived as a way we were gaming the system?” Wolinetz said. “I still think there’s quite a bit of confusion.”

In fact, second-parent adoptions, living wills and health care proxies are all precautions same-sex couples should take in the event of untimely death or a medical emergency, Cowhey said. While the law may be on your side, people who personally oppose same-sex marriage may still present roadblocks for couples trying to claim their rights.

“Same-sex marriage is legally allowed in all 50 states, but we still have [many] parts of this country that are not that open-minded,” Cowhey said. “If a man is in the hospital, and I show up and I say I’m his wife, no one doubts me for a second. But if [a woman is in the hospital and] I show up and say it’s my wife, people may question it. ... It’s a matter of form over substance.”

## Figure out if your state requires you to file individually

Another source of confusion? Many states still require same-sex spouses to file as individuals, casting doubt on other benefits for which they may be eligible, Credit Karma's Taylor said.

If you live in one of those states, a list which includes North Dakota, Ohio and Georgia, according to the [Balance](#), then at least one spouse can still file as head of household for maximum tax benefits. And if you're looking for other ways to reduce your overall tax bill, you can check out *Mic*'s other guides [here](#) and [here](#).

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