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Multistate Developments

Filing Requirements

Recent Developments Affect Tax Filing For Same-Sex Couples in Certain States

Same-sex couples can now get married in Pennsylvania, Oregon and Illinois and that has important implications for their 2014 state income tax returns. [*Whitewood v. Wolf*, M.D. Pa., No. 1:13-cv-1861, 5/20/14; *Geiger v. Kitzhaber*, D. Or., No. 6:13-cv-01834-MC, 5/19/14; *Latta v. Otter*, D. Idaho, No. 1:13-cv-00482-CWD, 5/13/14]

Nineteen states and the District of Columbia have legalized same-sex marriage.

Latest Developments. Federal district courts have issued rulings in *Whitewood v. Wolf* in Pennsylvania and *Geiger v. Kitzhaber* in Oregon, striking down those states' bans on same-sex marriage. On June 1, a marriage equality bill, S.B. 10, went into effect in Illinois.

Though the Pennsylvania Department of Revenue has not yet issued guidance for same-sex married couples for 2014, “[i]t is fairly clear that Pennsylvania will follow what other states have done and what the federal court has ordered,” David Glusman, the partner-in-charge of the Philadelphia Region of Marcum LLP, said. “For 2014, [same-sex married couples in Pennsylvania] are good to go.”

Previously, married same-sex couples in Pennsylvania were required to file their state returns separately.

Same-sex married couples in Oregon and Illinois are already required to use the same filing status on their state return as on their federal return.

Filing Status in Other States. Three states—Colorado, Missouri and Utah—ban same-sex marriage, but allow same-sex married couples to file their state tax returns jointly. Colorado passed legislation in February, which codifies the state’s initial policy statement by requiring married same-sex taxpayers to use the same filing status for state income tax as is used for federal income tax.

In addition, Idaho passed legislation in February that prevents legally married same-sex spouses from using the same calculations for their federal and state tax returns. However, changes may be coming to Idaho. In *Latta v. Otter*, a federal district court ruled, in May, that the same-sex marriage ban in Idaho was unconstitutional, but the injunction has been stayed while the case is being appealed.

Full text of the *Whitewood* decision is available online at <http://coop.pamd.uscourts.gov/13-1861.pdf>. Full text of the *Geiger* decision is available online at <http://www.ord.uscourts.gov/index.php/attorneys/rulings?download=400:opinion-and-order-in-geiger-v-kitzhaber-6-13-cv-01834>. Full text of the *Latta* decision is available online at <http://courtweb.pamd.uscourts.gov/courtwebsearch/idd/pqm9dVXjXj.pdf>.

A 50-state chart of income tax filing requirements for same-sex couples is online at <http://www.bna.com/state-coverage-m17179881165/>.

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For additional discussion of the filing status of same-sex couples in Illinois, see *Individual Income Tax Navigator*, at Idaho 5.3. For additional discussion of the filing status of same-sex couples in Oregon, see *Individual Income Tax Navigator*, at Oregon 5.3. For additional discussion of the filing status of same-sex couples in Pennsylvania, see *Individual Income Tax Navigator*, at Pennsylvania 5.3.