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What Many Gay Couples Still Get Wrong About Filing Their Taxes

To file separately or jointly, that is the question.
by Lamar Dawson 4/15/2018

Few people would say they enjoy doing their taxes, but Tax Day causes extra stress for same-sex households, according to a recent survey from Credit Karma.

The report found that a third of same-sex couples who married between 2013 and 2017 say they are “unsure and confused” when it comes to selecting their filing status. And that uncertainty can result in them leaving money on the table.

Here are five things same-sex married couples should be aware of on Tax Day.

1. Should we file jointly?

According to LGBT personal finance expert Brian Thompson, it depends. “You must consider your overall situation when deciding your filing status,” he told NewNowNext. “Your tax preparer or preparation software should be able to optimize which way is best for you, however, your filing status also has implications for your overall financial picture such as your ability to contribute to an IRA and how much you pay on income-based student loan repayments.”

2. Do we have to file the same status as we did last year?

“Nope,” says Thompson. “You can pick whichever status benefits you most in a given year. Also, you can change your status from separate (MFS) to joint (MFJ) any time in the three years after your filing deadline. But if you want to go the other way, MFJ to MFS, you have to act before the deadline.”

3. What’s the downside to filing separately?

“Filing separately may prevent you from contributing to an IRA or taking credits. You could even end up having your refund taken for your partner’s prior tax debt.”

4. Can we deduct adoption or reproduction-related expenses?

“You can deduct medical expenses associated with fertility, but only if it’s for your body [not a surrogate],” says Thompson. “There was a recent court case, *Morrissey vs. The United States*, where a gay man was denied the deduction for expenses he paid for surrogacy. The rationale, among other things, was it didn’t affect his body.”

According to Janis Cowhey, a tax attorney and partner at Marcum LLP's Modern Family & LGBT Services unit, "Married couples who file separately could also face limitations on the adoption tax credit and could lose out on up to \$13,000 per child." Say you're marrying a person who already has a child, Cowhey says you can adopt your partner's child before the wedding to collect the tax credit.

5. What's the most important thing to remember?

"I've seen many couples get married and simply forget to update their W-4 from single to married," says Thompson. They get a big surprise come Tax Day."

Gay or straight, marriage significantly impacts your financial life. Thompson suggests if you're a new couple, use a qualified tax preparer and learn how filing jointly or separately will impact you.

"They can help you figure out proper withholdings, deductions you may miss out on if you file separately, and opportunities for tax planning in the future," he says. "It's worth the time and money to have the knowledge up front and avoid mistakes that may be more costly in the future."