

## **Iowa Tax Treatment of Same-Sex Marriages**

**(NOTE: The information in this document was prepared prior to the decision of the Internal Revenue Service to recognize same-sex marriage for federal tax purposes. Taxation of same-sex couples is now the same for both federal and Iowa.)**

Beginning April 24, 2009, Iowa law permits same-sex couples to be married. *Varnum v. Brien* Differences exist between Iowa law and federal law that affect income tax collections or an employer's withholding responsibilities. Individual federal agencies are the proper authorities to give guidance on matters that do not affect Iowa taxation.

### **Definitions**

Iowa law uses the terms "husband," "wife," "spouse," and "marriage." It is not necessary for the actual text of the law to be changed before the ruling is carried out. The terms husband, wife and spouse should be considered gender-neutral to reflect both opposite sex and same-sex couples. The term marriage now also includes same-sex marriages.

### **Tax Filing Status: Iowa vs. Federal**

Beginning with tax year 2009, same-sex spouses should file their Iowa income tax returns as married persons, either jointly or separately. Federal law does not recognize same-sex marriages. As a result, same-sex spouses must still file separately for federal purposes.

Some parts of Iowa's tax law are based upon federal tax law, including the starting point, adjusted gross income. There are also some state deductions that are based on similar federal deductions. Same-sex spouses may need to perform special calculations to ensure they report the correct amounts on their Iowa tax returns.

Marital status is usually determined as of the close of the taxable year and applies for the entire taxable year. Iowa will recognize same-sex marriages for taxable years that end on or after April 24, 2009, but will not recognize same-sex marriages for taxable years ending prior to April 24, 2009.

### **Return Filing Options for Same-sex Spouses**

For federal purposes, spouses in a same-sex marriage should file either as single filers, or as head of household. See 1 USCS § 7, I.R.C. § 6012. See *also* I.R.S. Pub. 501. For Iowa purposes, same-sex spouses have three options for filing their Iowa income taxes:

- A married filing jointly Iowa return;
- A married filing separately Iowa return; or
- A married filing separately on a combined Iowa return.

Same-sex spouses who file their federal taxes as head of household will generally not be eligible to file their Iowa taxes as head of household. Iowa's use of the term "head of household" is based upon the federal definition, which generally allows the status only for unmarried people. Since same-sex spouses are married under Iowa law, with few exceptions, they are no longer able to file as head of household on their Iowa taxes.

## **Iowa Tax Treatment of Same-Sex Marriages (cont.)**

### **Taxability of Employee Benefits**

The federal and state tax treatment of certain employee benefits will also now differ under Iowa law. Because federal law does not recognize same-sex marriage, certain benefits that are tax-exempt when extended to opposite sex spouses and the children of opposite sex spouses will generally be taxable federally when they are provided for same-sex spouses and their children.

For Iowa tax purposes, if an employee benefit is tax-exempt when extended to the opposite sex spouse of an employee, or to the children of the spouse, the benefit is tax-exempt when extended to a same-sex spouse or to the children of the spouse.

### **Inheritance Tax Issues**

The inheritance tax implications for same-sex spouses are the same as they are for opposite sex spouses. The vast majority of Iowa's inheritance tax law already uses the term "spouse" rather than husband and wife. Regardless, the primary determinants of tax treatment will still be based upon the relationship to the decedent; for example legally married vs. not legally married and lineal relationship vs. non-lineal relationship.

### **Vehicle Transfers**

The Department provides guidance on situations where the vehicle ownership transfer may be exempt from the 5% one-time fee for new registration. The fee replaced the 5% vehicle use tax, effective July 1, 2008. There are a variety of title transfer situations involving spousal and familial relationships. The principles involved in these exemptions will also apply to same-sex marriages and dependents. For more information on these exemptions, refer to the Department's UT510 Manual: at <http://www.state.ia.us/tax/educate/78614.pdf>.

The Department recognizes there may be additional issues not raised in this document. These will be addressed as they arise on a case by case basis.