

# Your FINANCIAL RESOURCE

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## Supreme Court Legalizes Same-Sex Marriages in All States

Since the Supreme Court's 2013 *Windsor* decision, same-sex couples who are legally married under state or foreign laws have been treated as married for federal tax purposes just like any other married couple. The Supreme Court's *Obergefell* decision (issued in late June) now requires all states to license and recognize marriages between same-sex couples.



Specifically, the decision states that same-sex couples can exercise the fundamental right to marry in all states and that there is no lawful basis for a state to refuse to recognize a lawful same-sex marriage performed in another state.

Same-sex couples who are *legally* married in any state are now allowed to file joint state income tax returns wherever they reside. They are also entitled to the same inheritance and property rights and rules of intestate succession that apply to other legally married couples.

Therefore, same-sex couples should now be able to amend previously filed state income, gift, and inheritance tax returns for open years to reflect married status and claim refunds. Furthermore,

these couples likely need to rethink their estate and gift tax plans.

Before the *Obergefell* decision, members of married same-sex couples who live in states that did not previously recognize same-sex marriages had to file state income, gift, and inheritance tax returns as unmarried individuals. This caused additional complexity and expense in filing state returns.

Other implications of an individual's marital status include spousal privilege in the law of evidence; hospital access; medical decision-making authority; adoption rights; the rights and benefits of survivors; birth and death certificates; professional ethics rules; campaign finance restrictions; workers' compensation benefits; health insurance; and child custody, support, and visitation rights.

**Note:** The ruling does not apply to individuals in registered domestic partnerships, civil unions, or similar formal relationships recognized under state law, but not denominated as a marriage under the laws of that state. These individuals are considered unmarried for federal and state purposes. However, these state-law "marriage substitutes" might be eliminated now that all states must allow same-sex marriages. Individuals in these relationships can now obtain marriage licenses, get married, and thereby qualify as married individuals for both state and federal tax purposes.

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