

TAX IMPLICATIONS OF MARRIAGE EQUALITY

On June 1, 2014, the Religious Freedom and Marriage Fairness Act granted all couples the freedom to marry in Illinois. This flyer explores some of the common income tax questions and choices that come with marriage equality.



➔ What is my tax filing status?

- If you have a valid **marriage license** from *any* state or foreign country, you may file as either “married filing jointly” or “married filing separately” on both your Federal and Illinois state returns.
- If you have a **domestic partnership certificate** from *Illinois*, you may file as either “single” or “head of household” (if you qualify) on both your Federal and Illinois state returns.
- If you have a **domestic partnership certificate** from a state *other than* Illinois OR a Civil Union License from any state:
 - Your Federal filing status may be either “single” or “head of household” (if you qualify).
 - Your Illinois filing status may be either “married filing jointly” or “married filing separately.”

➔ How can I qualify for the “head of household” filing status?

You may file as “head of household” if all of the following are true:

- You are unmarried, or “considered unmarried” on the last day of the year.
 - You may be “considered unmarried” if you are legally separated, or married but have lived apart from your spouse for at least the last six months of the year.
- You paid for greater than half the cost of keeping up a home for the year (this includes rent, utilities, food, etc.).
- A qualifying child or qualifying relative lived with you in the home for over half the year.

Contact the Center for Economic Progress if you have questions on whether you qualify for “head of household” filing status.

➔ How do I convert my civil union to a marriage?

In 2014, couples in a civil union will also be able to “convert” their civil union, simply by filling out a form with a county clerk. In future years, couples already in a civil union will always be able to get married in Illinois by going through the same steps as any couple, provided they meet certain requirements (be the same parties to the civil union, not be in process of dissolving their civil union, etc.). They will incur the same waiting periods and process requirements as any other eligible marrying couple, except there is no fee for the marriage license. If you convert your civil union to a marriage, the date on your marriage license will retroactively reflect the date of your civil union.

➔ What is joint and several tax liability?

When you sign and file a joint tax return, you are telling the IRS that you agree to pay any tax due on that return – even if your spouse does not pay, and even if the tax is not caused by your own income or mistakes. You and your spouse are jointly responsible for the entire tax liability, including any additional taxes that the IRS may determine later. The IRS may also offset any refund to pay one spouse’s individual debt (such as child support, student loans, or other federal debt).

➔ What is “injured spouse relief”?

The IRS may take refunds and apply them to debts owed to other government agencies. If the IRS is taking your joint income tax refund and applying it to a debt owed solely by your spouse, such as child support, student loans, or other federal debt, you may qualify for “injured spouse” relief. File Form 8379, Injured Spouse Allocation, and the IRS will determine how much of the refund belongs to you by comparing your income to your spouse’s income. It will return the portion of the refund attributable to your income to you. If you are the only spouse who worked, the IRS will return your entire refund.

➔ If I have a child with an ex-spouse or partner, who may claim the child?

Either parent may claim the child as a dependent. However, if both parents claim the child, then the IRS will give the exemption to the parent with whom the child has lived for most of the year. If there is a tie, the parent with the higher income will get the exemption.

➔ What are some reasons to amend my tax return?

If you convert your civil union to a marriage, the marriage date will be retroactive to the date of the civil union. Therefore, you may benefit from amending your tax return, in one of two ways:

- Get a refund. If you have filed as “single” or “head of household” while in a Civil Union, you may amend these returns using Form 1040X to possibly get money back. You have three years to claim a refund—you may claim refunds for tax years 2011, 2012, and 2013 until April 15, 2015.
- Reduce your tax debt. Because you may qualify for certain exclusions and deductions by filing as “married filing jointly,” amending your return may reduce the tax liability for past tax years. Unlike the time limit for claiming a refund, there is no time limit for amending a return to lower tax liability.

➔ What if I elected employer-funded health coverage for my spouse or partner in a Civil Union, and now we have converted our Civil Union into a marriage?

If you elected coverage for your spouse or partner in a Civil Union, your employer included the amount of the employer-funded health coverage as income on your W-2. Use Form 1040X to amend your returns to exclude this amount from your income.

➔ Where can I get help amending my tax returns?

You may be eligible for free help at one of CEP’s Money Action Days. They are held once a month, from May to November, at our main office. Visit www.economicprogress.org for more information.

➔ Where can I get help filing my tax returns during tax season?

You may be eligible for free income tax preparation at one of CEP’s 14 tax sites in Chicago and the surrounding suburbs. Each year from January to April, CEP’s trained volunteers help nearly 20,000 people file their taxes to get all the tax credits they’ve earned and refunds they’re owed. Furthermore, CEP’s tax sites can help you open a bank account, learn ways to save for the future, and better manage your money. Visit www.economicprogress.org to find a tax site near you.

Tax Clinic Help Line: (312) 252-0280
taxclinic@economicprogress.org

Call Equality Illinois with questions about the freedom to marry:
(773) 477-7173 • info@eqil.org



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Equality Illinois is the state’s oldest and largest organization working to secure and protect the civil rights of gay, lesbian, bisexual, and transgender people. Learn more at www.equalityillinois.org