

NOTICE 13-18

GUIDANCE FOR SAME-SEX COUPLES (October 4, 2013)

Federal Tax Treatment

For federal tax purposes, Rev. Rul. 2013-17 provides that the Internal Revenue Service (IRS) will recognize a marriage of same-sex individuals that was validly entered into in a state whose laws authorize such a union. This applies even if the couple is domiciled in a state that does not recognize the validity of same-sex marriages.

As a result, for tax year 2013 and going forward, same-sex spouses generally must file their federal income tax returns using a filing status of married filing jointly or married filing separately.

Kansas Income Tax Treatment

Kansas only recognizes marriages between one woman and one man. (See Article 15, Section 16, of the Kansas Constitution.) Kansas Statutes Annotated (K.S.A. 79-32,115) provide that a husband and wife shall file a joint or married filing separate return for income tax purposes. Individuals of the same sex cannot file a Kansas income tax return using a tax status of married filing jointly or married filing separately.

In the case of same-sex individuals who are considered married for federal income tax purposes:

- As has been the practice since the initiation of the Kansas income tax, each individual must file a separate Kansas income tax return on Form K-40, using the filing status of single or, if qualified, head of household.
- Same-sex individuals who file a joint federal income tax return must complete a worksheet that will be available at www.ksrevenue.org to show the amount of income as reported on the joint federal return that is allocable to each individual, and determines the federal adjusted gross income to be used by each individual for Kansas tax purposes.

The above guidance applies to returns filed for tax year 2013 and going forward.

Although Rev. Rul. 2013-17 provides that under certain circumstances amended returns for prior tax years may be filed for federal tax purposes to change the filing status to married filing jointly or married filing separately, no such amended returns may be filed for Kansas to change the filing status.

Returns can be filed electronically through www.webtax.org, or, if it is available, through commercial tax preparation software. Returns can be filed on paper, although the Department of Revenue prefers that returns be filed electronically.

Taxpayer Assistance

Additional copies of this notice, forms or publications are available from our web site, www.ksrevenue.org. If you have questions about income tax, please contact:

Taxpayer Assistance Center
Kansas Department of Revenue
915 SW Harrison St., 1st Floor
Topeka, KS 66612-1588
Phone: 785-368-8222
Fax: 785-291-3614