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## **TAX RAMIFICATIONS OF A SAME-SEX MARRIAGE**

The Internal Revenue Service issued guidance on August 29, 2013, to address the Federal tax implications of a same-sex marriage. The guidance provides that the IRS considers a same sex marriage valid even if the married couple is domiciled in a state that does not recognize same sex marriage (such as Florida). However, the IRS will not extend the classification of “marriage” to include registered domestic partnerships, civil unions, or other formal relationships that don’t rise to the level of actual marriage.

As a result of the u.s. Supreme Court ruling in *Windsor* and Revenue Ruling 2013-17, and I.R.B. 2013-72 the following federal income tax guidelines now apply:

**Filing Status:** Married filing jointly or married filing separately.

**Amended Tax Returns:** Amended Federal income tax returns are not required to be filed, but are permitted. A taxpayer may file for a refund on IRS Form 843. Filing an amended Federal income tax return may permit a same sex couple to take advantage of personal exemptions, deductions, exclusions for the purchase of health insurance coverage, etc. However, in light of the “marriage penalty” they may not benefit or obtain a refund of prior taxes paid.

**Federal Estate & Gift Tax:** Transfers by same sex couples now qualify for the unlimited marital deduction. As a result, transfers between same sex spouses no longer require the use of the transferor’s applicable exemption or to trigger gift tax issues.

**Portability:** Same sex couples may utilize a deceased spouse’s unused exemption.

**Gift Splitting:** Same sex couples may now utilize gift split.

**Retirement Accounts:** A “spousal rollover” is now permitted for retirement accounts. In addition, spousal consent is now required to assign benefits of certain qualified plans