



Gay marriage in New Jersey: saying 'I do' brings change to household finances

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With marriage equality comes tax equality, as some couples in New Jersey will learn.

The hard-fought victory for same-sex marriage in the Garden State has brought with it a whole new equation for couples thinking about the next step: how will getting wed affect their household's finances and long-term planning?

For the most part, it should benefit them, financial advisers and accountants say. In addition to bliss, the right to marry brings a number of pluses, from fewer tax forms to be filed each year to simpler wills and estate planning.

But there also will be unexpected consequences that will pinch some newlyweds, and financial professionals say that's reason enough to assess their financial situation before rushing to the altar to say "I do."

High on that list of downsides is what's known as the "marriage penalty."

When two incomes are combined on a single tax return, a family's tax situation can be substantially changed and they could face a higher liability, notes Kyle Young, an investment officer at Wells Fargo Advisors in Short Hills whose practice focuses on LGBT clients.

"From a state and federal-level perspective, marriage carries a tremendous meaning," he said. "What we've found in some cases, the liabilities outweigh the benefits."

But, like other financial planners, Young doesn't think financial snags will be enough to stop most wedding bells. "The overwhelming number of my clients are moving in the direction of marriage."

Late last month, New Jersey became the 14th state to legalize gay marriage when Gov. Chris Christie dropped plans to appeal a state Supreme Court ruling that had paved the way for same-sex nuptials to take place. The moves came just four months after the U.S. Supreme Court ruled that a key provision of the Defense of Marriage Act was unconstitutional because it denied equal benefits to same-sex couples.

As a result, the federal government now will recognize same-sex marriages, though not civil unions, from those states that allow them.

So with New Jersey's gay marriage ruling comes a number of changes. Not the least of these is that those who do get married now will have to file federal tax returns as a married couple, rather than as two single or head-of-household filers.

Along with that comes some simpler decisions when filing taxes. In the past, couples have had to work out which partner gets the better tax benefit by declaring dependent children on their tax returns.

"It certainly makes lives easier," said Ken Weissenberg, a partner at accounting firm EisnerAmper's real estate practice who also advises same-sex couples on tax planning. And, he added, "it will save them a few dollars in accountant fees."

Couples will be able to save money in other ways.

Troy Stevenson, executive director of Garden State Equality, one of the plaintiffs involved in the case that legalized gay marriage in New Jersey, said some same-sex couples have shelled out \$10,000 to \$15,000 a year on legal and financial services just to protect their assets. Some households, particularly high-net worth ones, have had to establish trusts and other arrangements in the absence of the legal protection afforded by a federal recognition of marriage.

Some of that can be seen in the finances of Adam Gindi.

The 49-year-old Ocean Township native who owns a New York jewelry store has bought life insurance – to the tune of \$6,000 a year – solely to protect his husband, Anthony Chiafullo, and their children from the heavy tax burden they would face in the event that he died.

That's because before the repeal of DOMA, as the federal law was known, spouses in same-sex marriages faced a 40 percent federal tax on the value of estates exceeding about \$5.25 million. But for spouses in heterosexual marriages, no such estate tax existed.

Gifts are another thing Gindi says he doesn't have to worry about. Married same-sex couples can now pass unlimited amounts of money to each other without incurring a tax penalty. "I don't need to worry about if I didn't report it to the IRS."

There are more than 1,000 other federal benefits now available to same-sex couples who wed in New Jersey.

Same-sex spouses can now be made beneficiaries of their husband's or wife's federal pension. The change in law also will let stay-at-home spouses who wouldn't otherwise be eligible sign up for Social Security benefits

worth 50 percent of what their retired husband or wife collects, Young of Wells Fargo notes. They can even keep benefits going if their spouse passes away.

Small business owners in same-sex marriages can benefit from federal passive-loss deductions, Weissberger of EisnerAmper notes. For instance, if one spouse owns a restaurant, but the other runs it and incurs a loss, in a joint filing they can deduct the loss against their household income, he said.

Married same-sex couples can now file a joint bankruptcy petition, he said, although the flip side of that is, as a married couple, they also can inherit each other's debts.

New Jersey residents who earlier were married in another state also have the opportunity to go back and amend their federal returns for prior years, said Steven Bortnick, a certified public accountant at Bederson & Co., in West Orange.

But because marriage requires a change in one's tax status, there are certain situations where it could financially hurt to get married.

As an example, a couple where one person has a chronic medical condition could lose the medical deductions he or she takes upon getting married because deductions are based on total income, Bortnick notes. These deductions are particularly valuable on New Jersey returns, which let taxpayers take them on expenses exceeding 2 percent of their income.

Another example is of a same-sex household that receives public assistance, such as food stamps or Head Start services. Getting married and combining incomes could mean they no longer qualify for assistance, notes Emily Hecht-McGowan, director of public policy at the Family Equality Council in Washington, D.C.

Hecht-McGowan, a Monmouth County native who lives in Maryland with her wife, counts herself as one of those hit by the marriage penalty because it pushed her family into a higher tax bracket.

But she said she's not bothered by it. "Certainly the dignity piece of marriage equality outweighs that."

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