

Same-Sex Marriage FAQs

1. Can a same-sex married couple file a joint Virginia income tax return?

Yes, a same-sex couple who is legally married under state law may file a joint Virginia income tax return for any taxable year during which they were legally married and for which they filed a joint federal income tax return. Alternatively, a legally married same-sex couple may file their Virginia income tax returns as married persons filing separately for any taxable year during which they were legally married and for which they filed their federal income tax returns using a joint or married filing separately status.

2. If I am in a domestic partnership, civil union, or long-term relationship, but am not legally married to my partner, can my partner and I file a joint Virginia income tax return?

No, only a couple who is legally married under state law and who filed a joint federal income tax return may file a joint Virginia income tax return.

3. What if I was legally married in a state other than Virginia?

If you were legally married under state law, even if it was in a state other than Virginia, you are generally considered married for Virginia income tax purposes.

4. If I am legally married, how should my spouse and I compute items on our Virginia income tax return(s)?

If you file a joint Virginia income tax return, you should compute items on your Virginia income tax return as married individuals.

If you file Virginia income tax returns using a married filing separately status, you should follow the rules for Filing Status 3 that apply to married taxpayers who file separate returns. See the Department's website for more information regarding how to compute these items.

5. If I am in a legal same-sex marriage, what filing status must I use when filing my 2014 Virginia income tax return?

If you file a joint federal income tax return, you may file a joint Virginia income tax return or you may file two income tax returns using a married filing separately status.

If you file your federal income tax returns using a married filing separately status, you should file your Virginia income tax returns using a married filing separately status.

6. If I was legally married prior to 2014, can my spouse and I amend our Virginia income tax returns for previous taxable years to file joint Virginia income tax returns?

Yes, you and your spouse may amend your Virginia income tax returns for any taxable year within the statute of limitations to file a joint Virginia income tax return. To file an amended joint Virginia income tax return for a particular taxable year, you must have been legally married during that year and you must also have filed a joint federal income tax return with your spouse for that year.

7. If my partner and I filed separate Virginia income tax returns for a previous taxable year during which we were legally married, are we required to amend our Virginia income tax returns for that year?

No, you are not required to amend any previously filed Virginia income tax returns for Taxable Year 2013 or earlier. However, you may file an amended return if you would like to do so. See FAQ #6 above.

8. If I am in a legal same-sex marriage, how will filing a joint Virginia income tax return for a prior year affect my tax liability?

The tax consequences of amending your Virginia income tax return to file jointly for a prior taxable year depend on your unique facts and circumstances. Consult your tax preparer to determine the impact of amending a Virginia income tax return for a prior taxable year.

9. If I am in a legal same-sex marriage, can I amend my Employee's Withholding Exemption Certificate, Form VA-4 and claim an exemption for my spouse?

Yes, you may amend your Form VA-4 and claim an exemption for your spouse. If your spouse claimed an exemption for themselves on Form VA-4, they must amend their Form VA-4 and forfeit such exemption before you may claim an exemption for them on your Form VA-4.

10. Are employers to stop imputing the fair market value of employer-provided health insurance benefits for a same-sex spouse as income to the employee?

Yes, employers are to stop imputing the fair market value of such benefits as income to employees. An employer is required to remove the value of such benefits that were imputed as income to its employees on or after January 1, 2014 from the employees' income.