



STATE OF WEST VIRGINIA
Department of Revenue
State Tax Department

Earl Ray Tomblin
Governor

Mark W. Matkovich
State Tax Commissioner

ADMINISTRATIVE NOTICE 2014-20

WEST VIRGINIA TAX – SAME SEX MARRIAGE

There are specific portions of the West Virginia Code, including Sections 11-21-11 and 51, as well as Article X, Section 1b, Subsection C, of the West Virginia Constitution, in which marital status affects tax filings, the amount of tax due or entitlement to exemptions. The West Virginia Tax Department will administer these, and all other State Tax laws, in a consistent manner for all lawfully married individuals.

For West Virginia State Tax purposes, the terms "spouse," "husband and wife," "husband," and "wife" shall include an individual married to a person of the same gender. The term "marriage" includes marriage between individuals of the same sex, lawfully married under the law of any domestic or foreign jurisdiction having the legal authority to sanction marriages. However, for West Virginia State Tax purposes, the terms "spouse," "husband and wife," "husband," and "wife" do not include individuals (whether of the opposite sex or the same sex) who have entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under the law of any domestic or foreign jurisdiction, that is not denominated as marriage under the laws of that jurisdiction. For West Virginia tax purposes, the term "marriage" does not include such formal relationships.

Beginning with Tax Year 2014, West Virginia Personal Income Tax returns reflecting a married status that are filed by lawfully married individuals will be processed without regard to the gender or sexual orientation of the married partners. Amended Personal Income Tax returns that reflect a change in filing status from "single" to "married" will be processed in accordance with the law, but will be subject to any relevant statutes of limitations set forth in the West Virginia Code, including Section 11-21-59. The applicable statute of limitations is typically 3 years. However, individuals filing the amended return showing change in filing status from "single" to "married" must have been lawfully married during the relevant tax year for which the change in marital status is being sought.

Notice of this determination will be filed in the West Virginia Register.

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Mark W. Matkovich
State Tax Commissioner

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