

Tax Guidance: Alabama Income Tax Filing Status for Same-Sex Couples

Although same-sex couples may file a joint federal income tax return, Alabama law explicitly prohibits recognition of same-sex marriage. Therefore, in accordance with Alabama law, same-sex couples cannot file a joint Alabama income tax return. [Reference: Constitution of Alabama of 1901, Art. I, Sec. 36.03 (Amendment 774); Alabama Code § 40-18-27(a)]

To assist Alabama taxpayers who are members of a same-sex couple that file a joint federal income tax return pursuant to IRS Ruling 2013-17 (which allows same-sex couples, legally married in jurisdictions that recognize their marriages, to file a joint federal income tax return), the following Alabama tax guidance is issued:

- Each individual member of the same-sex couple must file his or her Alabama income tax return separately, using the filing status of single or, if qualified, head of household and using the appropriate Form 40A, Form 40 or Form NR (non-resident) return.
- Same-sex couples who file a joint federal income tax return must allocate the federal income tax liability shown on the couple's joint federal return to each individual, based on the ratio of the individual's separate federal adjusted gross income (AGI) to the combined federal AGI.
- Individual members of same-sex couples who file joint federal returns may electronically file their Alabama returns through the Department's My Alabama Taxes web portal, but they cannot file through other E-file services—all of which depend on matching state and federal returns. Taxpayers may also file using traditional paper tax returns or computer-generated paper tax returns.
- A copy of pages 1 and 2 of the taxpayer's federal return must be attached to the paper Alabama tax return.
- Amended Returns: Although taxpayers impacted by IRS Ruling 2013-17 may choose to file amended federal returns, thereby changing their federal filing statuses to married filing jointly or married filing separately, the IRS Ruling 2013-17 does not apply to the taxpayers' Alabama returns. Therefore, no amended state returns may be filed for purposes of changing one's Alabama filing status, as allowed for federal purposes.

NOTE: The above guidance applies to tax year 2013 returns and future tax year returns, as well as to any timely-filed or delinquent tax returns filed on or after September 16, 2013.

[Reference: Constitution of Alabama of 1901, Art. I, Sec. 36.03 (Amendment 774) and Alabama Code Section 40-18-27(a)]