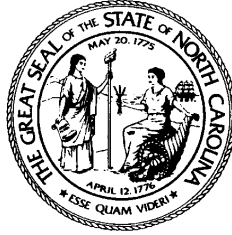


---

# North Carolina Department of Revenue

---



## **DIRECTIVE**

**Subject:** Same-Sex Marriage and Filing Status  
**Tax:** Individual Income Tax and Withholding Tax  
**Law:** Article 4 Part 2 and Article 4A  
**Issued By:** Income Tax Division, Personal Taxes Section  
**Date:** October 18, 2013  
**Number:** PD-13-1

This directive addresses the impact for purposes of North Carolina individual income and withholding taxes of Revenue Ruling 2013-17 by the Internal Revenue Service.

Under Rev. Rul. 2013-17, the IRS now allows same-sex spouses to file their federal income tax returns using the filing status of married filing jointly or married filing separately. Because North Carolina does not recognize same-sex marriage as valid (N.C.Gen.Stat. § 51-1.2), the North Carolina Department of Revenue cannot follow the new definitions in Rev.Rul. 2013-17. Consequently, individuals who enter into a same-sex marriage in another state cannot file a North Carolina income tax return using the filing status of married filing jointly or married filing separately.

Each such individual will need to file a separate North Carolina income tax return on Form D-400 using the filing status of single or, if qualified, head of household or qualifying widow(er). Such individuals who file a federal income tax return as married filing jointly or married filing separately must each complete a separate pro forma federal return for North Carolina purposes with the filing status of single or, if qualified, head of household or qualifying widow(er) to determine each individual's proper adjusted gross income, deductions and tax credits allowed under the Code for the filing status used for North Carolina purposes, and then attach a copy of the pro forma federal return to the North Carolina return.

When these taxpayers file electronically, each individual taxpayer will select to file the "State only" return for North Carolina purposes. The process will prompt the taxpayer at that point to complete another federal return with the North Carolina filing status of single or, if qualified, head of household or qualifying widow(er), and this pro forma federal return should be transmitted with the State return when the taxpayer files the "State only" return with North Carolina.