

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER
OFFICE OF TAX AND REVENUE**



**OTR TAX NOTICE 2010-01
January 12, 2010**

**District of Columbia Income Tax Return Filing Obligations of
Same-Sex Spouses Married in Other Jurisdictions**

Purpose

The purpose of this Notice is to advise same-sex spouses who are married in other jurisdictions that, upon approval by Congress, expected on March 2, 2010, these same-sex spouses will be able to file jointly or married filing separately on a combined return for tax years beginning on January 1, 2009, in the District of Columbia.

Filing Jointly or Separately on a Combined Form

District law provides that a marriage legally entered into in another jurisdiction between two persons of the same sex that is recognized as valid in that jurisdiction, will be recognized as a marriage in the District.

The Income Tax Joint Filing Clarification Act of 2009, enacted on December 17, 2009, clarifies the ability of these same-sex married spouses to file a District income tax return (D-40) jointly or separately on a combined form. The Act is currently under Congressional review and is expected to be approved on March 2, 2010 when it will become law. It applies for tax years beginning on January 1, 2009 and after. Same-sex spouses are advised to wait until that date to file D-40 tax returns so that they do not have to file amended returns. This legislation does not apply to Registered Domestic Partners registered in the District or those in similar relationships from other jurisdictions and therefore these partners do not need to delay filing their D-40 tax returns.

OTR recommends that same-sex spouses prepare a ‘mock’ joint federal return which is *not* to be filed on the federal level with the Internal Revenue Service, in order to determine whether filing jointly or married filing separately on a combined D-40 tax return is more advantageous.