

DOMA, Windsor, and the Idaho State Tax Commission

Rev. Rul. 2013-17 (Aug. 30, 2013)

- The IRS ruled that “In light of the Windsor decision... the Service... concludes that the terms ‘husband and wife,’ ‘husband,’ and ‘wife’ should be interpreted to include same-sex spouses” and therefore same-sex couples are now allowed to file joint tax returns.
- In Windsor, the Supreme Court held that section 3 of the Defense of Marriage Act (DOMA) was unconstitutional; it was this provision that the IRS had previously interpreted as prohibiting the IRS from recognizing same-sex marriages.

The Windsor holding

- In its conclusion that section 3 of DOMA was unconstitutional, the Supreme Court explained that section 3 “undermines both the public and private significance of state-sanctioned same-sex marriages’ and found that ‘no legitimate purpose’ overcomes section 3’s ‘purpose and effect to disparage and to injure those whom the State, by its marriage laws, sought to protect[.]’”

The Windsor holding

- The Supreme Court's rationale in Windsor focused on the rights of the states to each define and regulate marriage within their own borders.
- The Court stated “The significance of state responsibilities for the definition and regulation of marriage dates to the Nation's beginning; for ‘when the Constitution was adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States.’”

The Windsor holding

- The problem the Court found with DOMA in the Windsor decision was that it deviated “from the usual tradition of recognizing and accepting state definitions of marriage” and in so doing “operates to deprive same-sex couples of the benefits and responsibilities that come with the federal recognition of their marriages.”

Idaho Tax Commission response

- The IRS's revenue ruling stirred up a wave of inquiries for Idaho (and other states) as to whether they would allow or require these same-sex couples who will be filing joint returns with the IRS to file joint returns with the state.
- Idaho Code § 63-3031 the Idaho legislature grants the option to file a joint return to a "husband and wife." This is the only place in the Idaho Income Tax Act where the legislature has granted the option for joint filing to any persons.

Idaho Tax Commission response

- Given Windsor's emphasis on the traditional prerogative of the State to define and regulate marriage, the Tax Commission turned to an analysis of Idaho law and the intent of the Idaho legislature to determine whether the term “husband and wife” in Idaho Code § 63-3031 should be interpreted to include same-sex spouses.
- Idaho Code §§ 32-201 and 32-209, article 3 section 28 of the Idaho Constitution, and the common understanding of the phrase “husband and wife” suggested to the Tax Commission that the term “husband and wife” in Idaho Code § 63-3031 should be interpreted to mean that only a man and a woman married to each other are authorized to file a joint Idaho income tax return.

Idaho Tax Commission response

- The Commission concluded that to comply with the intent of the Legislature, some of the Commission's administrative rules and forms instructions needed to be amended.
- In this new landscape where same-sex couples would be filing joint returns with the IRS, some of the wording that existed in Tax Commission's administrative rules created confusion, suggesting that same-sex couples who file joint federal returns were required to also file a joint return with Idaho.

Idaho statute and rule amendment

- IDAPA 35.01.01.10.11: Marriage. For purposes of computing taxable income, including the computation of Idaho taxable income, any reference to marriage in federal or state law, including terms such as marriage, married, spouse, husband, wife, widow, or widower, shall be interpreted as referring to a marriage relationship defined in Section 32-201, Idaho Code, or recognized by Section 32-209, Idaho Code. For all purposes of the Idaho Income Tax Act, the marriage must be one which is considered valid or recognized under Article III, Section 28 of the Idaho Constitution.
- Idaho Code § 63-3004(c) For all purposes of the Idaho income tax act, a marriage must be one that is considered valid or recognized under section 28, article III, of the constitution of the state of Idaho and defined in section 32-201, Idaho Code, or as recognized under section 32-209, Idaho Code.

Latta vs. Otter, U.S. Dist. Ct. (2014)

- “Idaho's marriage laws do not withstand any applicable form of constitutional scrutiny”
- “Court finds they violate the Fourteenth Amendment of the United States Constitution”