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Final regulations: Defining “married couples” for tax purposes

The Treasury Department and IRS today released for publication in the Federal Register final regulations (T.D. 9785) concerning the definition of married couples for purposes of provisions in the Code.

The [final regulations](#) [PDF 250 KB] reflect the holdings of the U.S. Supreme Court in *Obergefell v. Hodges* and *Windsor v. United States* as well as IRS guidance provided in Rev. Rul. 2013-17.

A notice of proposed rulemaking was issued in October 2015. Read [TaxNewsFlash-United States](#). Treasury and the IRS received written comments concerning the proposed regulations. After considering those comments, the proposed regulations—as revised—are adopted as final with today’s release.

As noted in the preamble to today’s final regulations, the purpose of the regulations is to define marital status for federal tax law purposes. The IRS and Treasury have determined that marriages of couples of the same sex are to be treated the same as marriages of couples of the opposite sex for federal tax purposes.

Effective date

The final regulations are effective September 2, 2016 (the date of their publication in the Federal Register). Rev. Rul. 2013-17 will be obsolete as of that date; however, taxpayers may continue to rely on guidance related to the application of Rev. Rul. 2013-17 to employee benefit plans and the benefits provided under such plans, including Notice 2013-61, Notice 2014-37, Notice 2014-19, Notice 2014-1, and Notice 2015-86 to the extent they are not modified, superseded, obsoleted, or clarified by subsequent guidance.

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