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Personal Finance

Tax Report:

Tax Report: Same-Sex Marriages Would Add to U.S. Revenue

By Tom Herman

WIDESPREAD LEGALIZATION of same-sex marriages would probably increase federal revenue slightly, says the Congressional Budget Office. A key factor is the "marriage penalty," a tax-law oddity that forces many two-income married couples to pay more in taxes together than they would owe combined if they had remained single. Even though Congress has taken steps to provide some relief, the marriage penalty still hammers millions of two-income married couples each year, especially those where each spouse earns roughly the same amount.

For other couples, getting married can lead to lower taxes. But on balance, if Congress and the states legalized same-sex marriages, federal tax revenue would be "slightly higher" -- by less than \$400 million a year from 2005 through 2010 and by \$500 million to \$700 million a year from 2011 through 2014, according to a CBO letter, which was released last week, to a congressman. These amounts represent less than 0.1% of total federal revenue, the report added.

Toss in other potential effects -- such as Social Security benefits -- on the federal budget from recognizing same-sex marriage, and the bottom line would still be more money for Uncle Sam.

The CBO report acknowledges that the number of same-sex couples who would marry if they were allowed to do so is "unknown." But relying on census data for 2000, CBO analysts assumed about 0.6% of adults would enter into same-sex marriages if they could.

Here's an example of how the marriage penalty can really sting: Suppose each person earns \$150,000 this year and claims the standard deduction, a flat amount based on filing status. If those two got married and filed jointly, claiming the standard deduction, their federal income-tax bill would be about \$7,300 higher than if they had remained single, says Martin Nissenbaum, national director of personal income-tax planning at Ernst & Young in New York.

But the marriage penalty could be "substantially higher" if each spouse itemized deductions, claimed certain credits or took a deduction for an individual retirement account contribution, among other things, Mr. Nissenbaum said.

Massachusetts legalized same-sex marriages in May, following a decision late last year by the state's Supreme Judicial Court. Yet the Internal Revenue Service recently confirmed that same-sex couples can't file joint federal income-tax returns, citing the 1996 Defense of Marriage Act, which a senior IRS official says defined marriage as a "legal union between one man and one woman." Thus, even if a state recognizes a union of two people of the same sex as a legal marriage, "that recognition has no effect for purposes of federal law." A taxpayer "in such a relationship may not claim the status of a married person on the federal income-tax return."

In Massachusetts, though, same-sex spouses "will file as married persons, jointly or

separately," for state income-tax purposes, the state Department of Revenue said recently. Thus, same-sex couples in Massachusetts "may need to perform special calculations" to arrive at the proper state income-tax figure, the state says.

"Wow, what a mess," sighs Mr. Nissenbaum. "This will drive the tax-software companies crazy."

BREATHE A SIGH of relief if you haven't heard from the IRS lately.

Officials say they have notified all of the approximately 46,000 people, selected largely at random from various income groups, to undergo audits as part of a special IRS research program. "So if you haven't heard by now, you're not a part of it," an IRS spokesman says.

The program, the first of its kind in more than decade, is designed to help the IRS get an updated picture of tax cheating and improve its audit-selection process. About 85% of the research-program audits have already been completed, the spokesman says.

He declines to disclose what, if anything, researchers have learned, or how much money taxpayers owed.

THE IRS ISSUES new publications on used-car donations.

Publication 4303 is called: "A Donor's Guide to Car Donations." Publication 4302 is a charity's guide. They're both available free on the IRS Web site (www.irs.gov)

The donor's guide offers reminders such as making sure you're giving to qualified charities, keeping good records and making sure you "properly assess" the car's "fair market value."

Determining that value can be tricky. Many members of Congress suspect taxpayers often inflate the value of their vehicles. Both the Senate and House recently passed legislation that includes provisions designed to discourage inflated deductions. But those two provisions are very different from each other, and it's unclear what, if any, changes will emerge.

Officials say the number of car-donation programs has increased "dramatically" in recent years.

BRIEFS: "TaxProf Blog" is a recently created Web site for tax professors (taxprof.typepad.com), set up by Paul L. Caron of the University of Cincinnati College of Law. Recent topics include a report of astronomical weekly pay for summer associates at major New York City law firms. . . . Why do our tax laws keep getting more and more complex? In Congress, tax-law simplification "is everyone's second choice," says Sheldon Cohen, a Washington lawyer and a former IRS Commissioner. "Their first choice is some tax benefit for a constituent."

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