

## **Rightfully PROUD**

*Rightfully PROUD* is a series of pamphlets designed to help lesbian, gay, transgender and bisexual (LGBT) people living in British Columbia make sense of their rights and responsibilities under federal and provincial law.

It is hoped the series will enable LGBT people to make more informed decisions about their lives, relationships and families.

These pamphlets were updated and reprinted in 2005, following a first printing in 2002. For more information on any given topic, contact the resources listed or consult with a lawyer or legal advisor.

Other pamphlets in the *Rightfully PROUD* series include:

- Adventures in Parenting
- Human Rights & Discrimination
- In Health, Through Illness & Loss
- Same-Sex Partnerships:  
Rights & Responsibilities

For copies, contact The Centre at 604 684-5307 or visit our website [www.lgtbcentrevancouver.com](http://www.lgtbcentrevancouver.com)

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## **RESOURCES**

### **CANADA CUSTOMS & REVENUE AGENCY**

(GOVERNMENT OF CANADA)

#### ***Income tax inquiries for individuals***

1-800-959-8281

[www.ccra-adrc.gc.ca](http://www.ccra-adrc.gc.ca)

### **THE CENTRE**

A community centre serving & supporting lesbian, gay, transgender, bisexual people & their allies

#### ***Information, referrals & services***

1170 Bute Street  
Vancouver, BC V6E 1Z6  
Tel. 604 684-5307  
1-800-566-1170  
[www.lgtbcentrevancouver.com](http://www.lgtbcentrevancouver.com)

### **GAY & LESBIAN BUSINESS DIRECTORY OF GREATER VANCOUVER**

Information on legal services and lawyers

Tel. 604 739-GLBA  
[www.glba.org](http://www.glba.org)

# **Rightfully PROUD**

Legal information for  
lesbian, gay, transgender, bisexual people  
and their families in British Columbia



updated  
2005

# **Income Tax: What Same-Sex Couples Need to Know**



**THE CENTRE**

A Community Centre Serving and Supporting  
Lesbian, Gay, Transgendered, Bisexual People  
and their Allies

## Income Tax: What Same-Sex Couples Need to Know

In July 2000, the Federal Government's Bill C-23, the Modernization of Benefits and Obligations Act became law.

Bill C-23 is significant for lesbian, gay, transgender and bisexual people because it redefines common-law relationships to include same-sex couples. The Bill affects almost all aspects of federal law, including the Income Tax Act.

### What does this mean for same-sex couples?

Effective 2001, it will be *mandatory* for same-sex couples *who have been living together for more than one year* to file tax returns indicating that they are common-law partners.

Same-sex partners continue to submit individual tax returns but must check off the "Living common law" box on the tax form and indicate their partner's name and social insurance number on the respective returns.

*Same-sex couples who marry must check off the 'Married' box on the tax form regardless of how long they have been married. There are no other differences between common-law and married couples in completing their tax returns.*

### Tax implications for same-sex couples

How these changes affect a same-sex couple depends on a number of factors including the couple's income, dependents, and investments. Here are general tax implications for same-sex couples to consider:

#### Ability to claim the spousal tax credit

It may be possible for a partner with a higher income to claim a spousal tax credit when the other partner has little or no income.

#### Ability to transfer certain unused tax credits

If the lower income partner has no tax to pay (has little or no income), then certain unused, non-refundable tax credits can be transferred to the higher income partner.

Unused tax credits may include the age credit (for people 65 and over), disability credit, tuition and education credits, and pension credits.

#### Ability to pool charitable donations & medical expenses

Tax credits for charitable donations and medical expenses may now be combined and claimed on the return that provides the best deduction.

#### Ability to contribute to spousal RRSPs

Same-sex partners can now designate RRSP contributions as spousal amounts. The objective is to even out taxable income between partners in retirement years and lower the partners' combined tax liability. Spousal RRSP contributions do not affect your RRSP deduction limit.

#### Tax-free rollover of assets upon the death of a partner

Same-sex partners may now qualify for a tax-free rollover of assets upon the death of one partner. For example, RRSPs may be transferred to the surviving partner's RRSP without being taxed. Without this provision, RRSPs were deemed taxable income at the time of death.

**The deadline for filing tax returns for both partners** is extended to June 15 if one of the partners has self-employment income.

#### GST Credit & Child Tax Benefit may be reduced

GST and Child Tax Benefit will be calculated on your combined income which may result in a lower credit or none at all.

#### Child care deductions may be reduced

Child care expenses must be claimed by the partner with the lower income. This may reduce the benefit of the deduction.

#### Loss of the equivalent-to-spouse credit

A person supporting and living with a dependent such as a child will no longer be able to claim this credit if they are in a same-sex common-law relationship.

#### Principle residence exemption

Same-sex couples can now only have one principle residence between the two of them.

Income from selling a second home or property will be taxed.

#### Be honest

It is recommended that you answer the common-law question honestly on your tax return. Failure to declare your common-law status may result in penalties and being required to repay benefits.

#### It pays to be honest

Income tax returns may be reviewed by the government to verify your common-law relationship. This may help support your eligibility for pensions and other benefits upon the death of a partner.

#### Canada Student Loans:

If you have been living with your partner for more than one year, your partner's income will be considered in determining your eligibility for student loans. There is an expectation that your partner will contribute to your education

**Other points to consider...**