

# **Domestic Partnership Joint Filing Clarification Act of 2023, Bill 25-471**

**The Committee on Business and Economic Development  
The Honorable Kenyan McDuffie, Chairman**

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Good morning, Chairman McDuffie, and members of the Committee on Business and Economic Development. I am Elissa Borges, Assistant General Counsel, for the Office of Tax and Revenue. Thank you for the opportunity to provide testimony on behalf of the Office of Tax and Revenue (OTR) on Bill 25-471, the “Domestic Partnership Joint Filing Clarification Act of 2023.”

This bill seeks to amend D.C. Code § 47–1805.01 to add a new filing status for registered domestic partners to allow each domestic partner to file a “separate” return and to strike an obsolete reference for the filing statuses available to married same-sex individuals.

### **Registered Domestic Partners**

By way of background, the filing statuses historically available to a District taxpayer on both their federal and District tax returns are “single”, “married filing jointly”, and “married filing separately” (and, later, also included “head of household” and “surviving spouse”). In 2007, the Council enacted the Domestic Partnerships Joint Filing Act of 2006, D.C. Law 16-292, which established a process for individuals to establish a domestic partnership under D.C. Code § 32-702 and, with regard to taxes, amended D.C. Code § 47–1805.01 to allow, but not require, “domestic partners to file either a joint return or separate returns . . . as if the federal government recognized the right of domestic partners to file jointly.”

For context regarding how District taxpayers actually file their District tax returns, OTR received the following District income tax returns for tax year 2022:

FILING STATUS CLAIMED		NUMBER OF RETURNS	PERCENTAGE OF RETURNS
Unmarried Individuals	Single	238,514	56.40%
	Head of household	48,897	11.56%
	Surviving Spouse	98	0.02%
	Registered domestic partners filing jointly	30	0.01%
	Registered domestic partners filing separately on the same return	96	0.02%
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Married Individuals	Married filing jointly	48,225	11.40%
	Married filing separately	12,416	2.94%
	Married filing separately on the same return	74,651	17.65%
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<b>TOTAL</b>		<b>422,927</b>	<b>100%</b>

Since domestic partners are, by definition, not married, under current law, they also have the option to file a District income tax return as “single” (or, if applicable, “head of household”) and are not required to file a “separate” return. Therefore, we believe the addition of a new filing status of “registered domestic partners filing separately” is unnecessary, may confuse individuals in a domestic partnership, and may result in their owing more tax than they would otherwise owe if they simply filed as “single” (or “head of household” if applicable).

### **Married Same-Sex Individuals**

In 2010, the Council enacted the Income Tax Joint Filing Clarification Act of 2009, D.C. Law 18-108, which amended D.C. Code § 47-1805.01 to add the following subsection:

**(g) Joint filing of returns for married same-sex individuals.**  
— Married same-sex individuals may file either a joint return or separate returns on a combined form prescribed by the Chief Financial Officer as if the federal government recognized the right of married same-sex individuals to file jointly.

Following the landmark decisions of the Supreme Court in United States v. Windsor, 570 U.S. 744 (2013) and Obergefell v. Hodges, 576 U.S. 644 (2015), the federal government has recognized the right of married same-sex individuals to file a joint tax return since 2013 and a fundamental right of same-sex individuals to marry since 2015.

As a result, it is appropriate, at the very least, to amend subsection (g) to reflect federal law following the U.S. Supreme Court decisions in the Windsor and Obergefell cases. Moreover, since “same-sex married individuals” are simply “married individuals,” there is no longer a need, as a legal matter, for subsection (g) and the Committee should consider repealing it in its entirety.

Thank you for the opportunity to testify. I am happy to answer any questions you may have.