

# Guide for Civil Union Partners in Vermont

Published by the Vermont Department of Banking, Insurance, Securities  
& Health Care Administration, in collaboration with the  
Vermont Tax Department

## Common Questions Regarding Personal Finance

A SUGGESTION: You may find it useful to read the following material in the order presented. It will be easier to understand some concepts referred to in later sections. (Currency of information: The Tax Questions portion of this publication was updated June 2004. All other material, written in January 2001, is presently under review and expected to be updated soon.)

## Some General Notes Concerning the Benefits of Act 91

Vermont's 2000 Legislative session passed Act 91 (H.847), an "Act Relating to Civil Unions." This statute provides eligible same-sex partners who enter a civil union the opportunity to obtain the same benefits and protections which Vermont law affords to married couples. To become civil union partners, applicants must obtain a license from the town clerk and have the union certified under Vermont law. Although Act 91 was generally effective on July 1, 2000, the portions of the law which relate to insurance and taxes did not take effect until January 1, 2001.

Bear in mind that, as of this writing, federal laws and the laws of other states may not recognize civil unions. Therefore, civil union partners may not receive the benefits provided to married couples under federal law or the laws of other states.

### ABOUT THE INFORMATION IN THIS GUIDE:

The following questions and answers provide general guidance only and are not designed to cover every relevant issue. Personal circumstances can raise a variety of questions not addressed here. The information represents the Department's interpretation of state and federal law as it relates to Act 91. As often happens following the passage of new legislation, the courts may eventually provide further guidance with regard to Act 91's impact on state and federal laws. Therefore, you should seriously consider obtaining the services of an attorney or financial advisor for individual advice, as needed.

### INSURANCE QUESTIONS

*A newly written Vermont insurance regulation, No. 2000-01-IH, prohibits unfair discrimination by insurers regarding policies and contracts offered to married couples and civil union partners.*

#### **Does the civil union law apply to all insurance policies sold in Vermont?**

Act 91 provides that, effective January 1, 2001, all insurance policies issued or renewed in Vermont to married couples, spouses, and their families must also be made available to civil union couples and their families. However, Vermont law governs only state-regulated insurance plans. Some benefits in Vermont insurance plans, and some plans themselves are governed by federal law which does not recognize civil unions. Therefore, if your insurance plan or benefits are governed by federal law, those benefits may not be available to civil union partners.

**Does an insurer have to offer civil union couples the same joint policies and discounts that they offer to married couples?**

Insurers are required to offer civil union couples the same policies and contracts they offer to married couples, except where prohibited by federal law, or where a benefit is limited under federal law to a married person. When an insurer declines to provide you with a benefit because of federal law, the insurer has to tell you. Insurers will be required to provide some, but not all, discounts that they offer to married couples to civil union couples as well. Ask the insurer whether there are any discounts offered to married couples that are not being offered to you and why they are not being offered. If you have any questions about whether the insurer can decline to offer an equivalent discount to you, you may call the Division of Health Care Administration for questions relating to health, accident, disability or long term care insurance **(800) 631-7788** or call the Insurance Division **(802) 828-3302** for questions relating to all other types of insurance.

**Does my employer have to provide me with the option to cover my civil union partner and dependents under my health insurance plan?**

*Public employers who offer health insurance to married couples and their families (with the exception of the federal government) are required to provide the same health benefits to civil unions couples.*

*Private employers who have plans governed under a federal law called ERISA (Employee Retirement Income Security Act of 1974) are not required to offer coverage to civil union partners, but may do so if they choose. Insurers are required to offer policies in the market for employers to purchase which include civil union coverage, but employers decide who will be eligible to enroll in their plans.*

If you think your employer is required to provide equivalent benefits and is not doing so, you can contact the Attorney General's Office at **888-745-9195**.

**If I buy an individual (non-group) health insurance policy, what obligation does the insurer have to cover my civil union partner and children? Will I pay family rates?**

Since Vermont regulates all individual health insurance policies, insurers are required under Vermont law to offer coverage to civil union couples and their families which is equivalent to the coverage they offer to married couples and their families. If you purchase family coverage, you are entitled to family rates. Similarly, if you buy two-person coverage, you will pay the two-person rate.

**Does the civil union law apply to domestic partners who are not joined in a civil union?**

No--the insurance provisions of Act 91 apply only to civil union partners, although some insurers voluntarily offer what they refer to as a "domestic partner rider" to the basic insurance policy. Eligibility requirements for the rider may differ from the requirements of the basic plan.

**If my partner and I terminate our civil union, what happens to our health insurance?**

The COBRA law that grants insurance continuation rights to dependents upon divorce is a federal law. Therefore, you may not be entitled to coverage as a civil union partner. However, an employer could choose to provide continuation of benefits.

**If I cover my civil union partner on my employer's health insurance, is it taxable?**

At the federal level, yes. The value of your employer's contribution for your partner and non-IRS eligible dependents is considered taxable, and is "imputed" dollar for dollar to your total income in calculating your federal tax. Starting with the 2001 tax year, it is not factored as imputed income for Vermont state income tax purposes. Your civil union partner and non-IRS eligible dependent(s) also may not qualify for federal tax exemptions on insurance premiums that married couples receive.

**Does the civil union law apply to medical savings accounts (MSA's)?**

No. MSA's are regulated under federal law. This type of health insurance combines a high-deductible health insurance plan with a tax-sheltered savings account. The main benefit of the MSA is that you can contribute "pre-tax" dollars (money on which you do not pay federal taxes) to the savings account which you can then use to pay your insurance premiums and deductible. Federal law may not allow you to make tax-free contributions to your MSA to cover insurance benefits for your civil union partner or partner's dependents.

**Does the civil union law apply to annuity contracts in Vermont?**

Vermont law requires that insurers provide civil union partners the same access to annuity contracts as married couples. However, the civil union law may not apply to certain spousal benefits provided under federal law. For example, the federal tax code allows surviving spouses to continue to defer income beyond the death of the owner of the annuity contract. This rule may not apply to civil union partners.

**BANKING QUESTIONS**

**Why is my bank asking that my civil union partner sign the mortgage deed when he/she does not own the property?**

The spouse or civil union partner of the legal owner of real estate has a "homestead interest" in that property under Vermont law when both spouses or partners occupy the house as their primary home--even if the owner's spouse or civil union partner is not a co-owner. This homestead interest prevents creditors from attaching an "innocent spouse" or civil union partner's interest in a family home, up to a certain amount. Therefore, a lender will require that both spouses or civil union partners sign the mortgage deed.

**Does the civil union law apply to Individual Retirement Accounts?**

No. IRA's are federally regulated. Certain spousal benefits are not available under federal law. For example, the federal tax code allows surviving spouses to continue to defer income beyond the death of the IRA's owner. This rule may not apply to civil union partners.

**TAX QUESTIONS**

**On our tax returns, what marital status do we use as civil union partners?**

Partners will continue to file individually as "single" (or "head of household," if qualified) on federal income tax returns. Individual partners cannot file as "single" on Vermont income tax returns. For the state return, civil union couples may elect to file a joint return or separate returns in the same manner as married couples filing jointly or "married filing separate."

**How do we calculate our Vermont tax when our Vermont filing status is not the same as the federal filing status?**

Vermont imposes a tax on the taxable income of individuals at variable rates. "Taxable income" means federal taxable income with certain additions and subtractions. Civil union partners should complete a federal 1040 form using federal rules as they apply to married couples, calculating federal adjusted gross income (AGI) and taxable income as if they were married. The recomputed AGI and taxable income are then used on the Vermont return as though those are the actual federal income amounts.

### **How will we know the correct taxable wages to recompute our federal tax liability?**

Vermont taxable wages are shown on the W-2 separately from the federal wages. The Vermont wages are used for the recomputation.

### **In what ways will the Vermont calculation of my taxable income differ from my federal return?**

The recomputed return for Vermont will apply federal rules regarding the taxability of income as though you and your partner filed as married on your federal return. This may change your allowable exemptions and deductions. Also, the value of certain fringe benefits may be considered taxable wages for federal tax purposes when provided for a person other than an IRS-eligible dependent or spouse.

### **What types of fringe benefits may be treated differently for Vermont tax purposes than for federal tax purposes?**

Federal law allows an employer to provide, as a non-taxable benefit, health insurance for a spouse. However, the amount of your employer's contribution for coverage for your civil union partner and non-IRS eligible dependents is considered income and your employer will be required to include that income in the federal wages reported on your W-2. Also, any premiums you pay for coverage for your partner and non-IRS eligible dependents will not qualify for a federal tax exemption.

For computing Vermont tax, the amount of your employer's contribution is non-taxable in any circumstance where it would be non-taxable if it were provided to a married person. The Vermont tax is computed by applying federal rules as though you and your partner filed as married on your federal return. In most cases, this will mean that the employer's contribution is a non-taxed fringe benefit.

Also, certain benefit plans allow an insurance premium paid by an employee to be excluded from taxable income (sometimes referred to as using "pre-tax" dollars.) To the extent that employers offer such a benefit to married couples, it is also available to civil union partners, but only at the state tax level. Civil union partners do not qualify for the benefit under the federal rules.

The employer will calculate what is or is not taxable for Vermont and will provide the information in your payroll statements and W-2's.

### **Why is there a separate Vermont withholding form, the W-4VT?**

Some federal credits such as the Child Tax Credit or Education Credits (HOPE and Lifetime Learning) reduce federal taxes but not state taxes. If an employee has claimed additional federal withholding allowances in anticipation of these credits, or if the employee is a civil union partner and will not have the same exemptions for state tax as for federal tax, the W-4VT can be used to provide the employer with the correct information for Vermont withholding.

The W-4VT form may be obtained from your employer, from the Tax Department's web page, <http://www.state.vt.us/tax>, or by telephoning the Tax Department at (802) 828-2515.

**If I have a medical expense or dependent care flexible savings account through my employer, can I pay my partner's bills out of it?**

No. The account administrator must follow federal rules which prohibit payment from these accounts for the expenses of anyone other than yourself, your spouse or your IRS-eligible dependent. In some cases, such as legal adoption, your partner's child may qualify as your dependent under federal law but this is unrelated to the Civil Union law.

**If I die first, will my bequest to my civil union partner be deductible from the estate tax, as for married couples?**

No, it won't be deductible.

**Is a transfer of property from me to my civil union partner tax exempt in Vermont?**

As long as it's a gift and nothing of value is given in exchange for the property, it is exempt.

**For married couples there is a property holding period provision which allows property held by one partner before the marriage to be added to the holding period of both partners, for the purposes of computing the land gains tax. Does this apply to civil union partners as well?**

Yes, it does apply.

**For married couples there is an "innocent spouse" rule which applies when one partner has a portion of his/her tax refund offset for debt collection. It shields the other partner from this liability. Does this rule apply to civil union partners as well?**

Yes, it does apply for state purposes.

## **SOURCES OF HELP**

**Department of Banking, Insurance, Securities & Health Care Administration  
89 Main St Drawer 20 Montpelier, VT 05620-3101, as follows:**

*For health, accident, disability and long term care insurance questions, contact:*

**The Health Care Administration Consumer Helpline 802-828-2900  
or toll-free (from within Vermont): 800-631-7788**

*For all other types of insurance questions (other than health insurance) contact:*

**The Insurance Division Consumer Helpline: 802-828-3301,  
or toll-free (from within Vermont) 800-964-1784**

*For assistance with health insurance questions and concerns, contact:*

**The Office of Health Care Ombudsman  
PO Box 1367 264 N. Winooski Ave. Burlington, VT 05402  
1-800-917-7787**

*For questions relating to taxes contact:*

**The Vermont Tax Department  
109 State St. Montpelier, VT 05609-1401  
Taxpayer Assistance Line: 828-2865**

*For questions relating to employers contact:*

**The Vermont Attorney General's Office  
109 State St. Montpelier, VT 05609-1001**

**888-745-9195**

Or,

**The Vermont Human Rights Commission  
135 State St. Montpelier, VT 05633-6301  
802-828-2480**

#### **FOR RELATED INFORMATION**

**The Vermont Secretary of State's Office  
109 State St. Montpelier, VT 05609-1101  
802-828-2363**

See their [web site](#) or call the Secretary of State's Office to request *The Vermont Guide to Civil Unions*, an excellent overview with frequently asked questions relating to eligibility and the process of entering into a civil union.

**The Vermont Civil Union Review Commission information on the [Vermont Legislative web page](#)**

*Upon request, this guide is available in an alternative format for someone with a reading or visual disability.*

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Securities & Health Care Administration  
89 Main St. Drawer 20 Montpelier, Vermont 05620-3101  
802-828-3301**