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same-sex couples to file as a married couple if they were married in a state that allows it, even if they live in a state that doesn't.

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North Dakota now has a tax form for married same-sex couples, and it's precisely because the state doesn't recognize such marriages.

The federal Internal Revenue Service had announced in August that it would allow same-sex couples to file as a married couple if they were married in a state that allows it, even if they live in a state that doesn't.

North Dakota is one of those that don't because its constitution says so.

For the North Dakota tax department, that posed a bit of a dilemma, according to Lorie Bowker, who oversees the department's income tax section.

She said its answer was the form ND-1S, which was posted online about a week ago.

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It's basically a work form for divvying up a couple's federal tax filing so they can file as individuals in North Dakota.

Bowker said, like the federal government, there is a "marriage penalty" built into the North Dakota tax code, so filing as individuals could be beneficial to same-sex couples. For example, a couple earning \$75,000 together would owe the state \$1,341, but if they filed as two individuals earning half that amount, they would together owe \$151 less.

The new form hasn't been widely publicized, but she said the tax department has had a few inquiries, probably from tax preparers whose clients are in same-sex

marriages.

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Some advocates for same-sex marriage nationwide say the discrepancy between federal and state tax filings could be grounds for lawsuits based on the equal protection clause of the U.S. Constitution.

The Wisconsin State Journal, for example, reported shortly after the IRS ruling that some advocates are planning to file as married couples just to be rejected by the state, allowing them to proceed with a lawsuit. The report said some couples may just file with the hope that the system will overlook the fact that they are the same sex.

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