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Why Divorce is Different for Same-Sex Couples

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NEW YORK ([MainStreet](#)) — Lesbian and gay people tend to earn more than their heterosexual counterparts and have a slightly lower unemployment [rate](#), according to a recent survey; however, marriage isn't always beneficial between same sex couples especially when it comes to divorce.

"Getting married can put two high wage earners into a higher tax bracket," said Debra Abbott-Walker, manager of agency recruiting with Prudential. "It's an individual choice and decision."

The salary of gay people is \$61,500 compared to \$50,054 for the national average, according to a Prudential survey of more than 1,000

LGBT respondents. They also report \$4,000 less in debt and have \$6,000 more in the [bank](#) than the average American. Their unemployment rate is .09% lower than for the rest of the population. Although they may be more financially stable than heterosexuals, many resist one of the oldest traditions.

"A significant portion don't want to get married, because in some instances marriage will [save money](#) but in other cases there's a cost," said Brad Snyder, director of Institutional Giving with the Lesbian, Gay, Bisexual & Transgender Community Center in New York. "But the benefits that come from marriage are one of the best safe guards out there."

According to a recent TD Bank survey, 82% of individuals in relationships have a joint checking or savings account with their spouses. Regardless of marital status or gender, same sex couples may find a joint premium [bank account](#) convenient.

"Same sex couples with the ability to keep a higher balance in their bank account may benefit from choosing a premium account, which can offers non-bank ATM fee reimbursement, free official bank checks and discounts on safety deposit boxes," said Lindsay Sacknoff, head of retail deposit products and pricing with TD Bank.

When All Goes South?

However, merging [finances](#) is not for everyone especially those whose same sex marriages end in divorce.

"Have a prenuptial agreement drawn up in advance of the marriage that specifically deals with how you will divide up property and support in the event you break up," said [Lori Barkus](#), family law attorney in Florida. "A little bit of planning ahead of time can save a lot of time, money and further heartbreak in the end."

While last year's U.S. Supreme Court ruling overturned the Defense of Marriage Act and led to federal marital protections for same-sex couples, under current law the federal government defers to states in determining whether a marriage is valid.

"This is leading to a host of legal challenges all over the country," Barkus told *MainStreet*. "The attitude in many states is that if same sex marriage isn't recognized in that state then neither is same sex divorce."

Married same sex couples today are pioneers for future gay couples, setting the stage for legal challenges that divorce creates. One area that's still unclear is when married couples relocate from a state that recognizes gay marriage to a state that doesn't.

"In certain circumstances, they can return to the state where they got married to get a divorce," Barkus said. "However, this can prove to be a personal and financial hardship in that many states require at least a six-month minimum residency before granting a divorce."

Another strategy is to challenge state law and hope to find a judge who will rule in their favor. "Divorce is part of the uncertainty that's still out there," said Robert Fishbein, vice president and corporate counsel with Prudential Financial.

--Written by Juliette Fairley for MainStreet