TAX POLICY CENTER
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POLICY BRIEF: SAME-SEX MARRIED TAX FILERS AFTER WINDSOR AND OBERGEFELL

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INTRODUCTION

Supreme Court rulings in 2013 and 2015 established and expanded rights to same-sex marriage in the U.S. One of the most visible and impactful ways the federal government recognized these new rights was by allowing—indeed, requiring—legally-married same-sex couples to file federal tax returns as married couples. In a recent paper, we estimate how many couples took up these new federal rights in each state, drawing from returns filed in the years affected by the Court decision (Fisher, Gee, and Looney 2018).

We estimate that there were 250,450 same-sex married tax filers in 2015 (about 0.48 percent of all married tax filers). The number of same-sex joint tax filers increased from about 131,080 in 2013 and 183,280 in 2014. The total number of same-sex married filers represents about 60 percent of the number of Census-estimated same sex couples. Our analysis suggests that some couples who identify as married, like couples in civil unions or domestic partnerships, may instead be partners who were not legally married and thus ineligible to file joint returns. In addition, a small number of couples may not file tax returns.

The economic and demographic characteristics of same-sex married tax filers at the national level are otherwise very similar to those estimated from Census-based sources. Same-sex joint filers are generally younger, higher income, less likely to claim dependent children (especially for male couples), and more geographically concentrated than are different-sex filers. Tabulations by state and by finer geographic area reveal large differences in the number and share of filers that are same-sex couples across the country, with the highest proportion of same-sex filers in states that had legalized same-sex marriage prior to 2013, costal states, and in certain metropolitan areas.

Data from the tax returns filed by same-sex filers are relevant for understanding the number and characteristics of same-sex married couples in the population, and thus augment information available from survey-based sources. Legally-married individuals are generally required to file either as married filing jointly or married filing separately, and a comparison between tax filers and Census estimates suggests that almost all couples file joint returns, especially among the working-age population. These administrative records have other advantages relative to survey-based data. The entire population of more than 50 million records of married filers is available each year. The data have few missing values or non-responses. The information is likely to be reported accurately because of taxpayers' legal obligations, the existence of third-party reporting (such as of wages submitted by employers), and certain data-quality checks during filing and processing.

That said, even in administrative data, measuring the population of same-sex married couples requires confronting a well-known problem arising because small misclassification errors in recorded gender of different-sex spouses result large biases in the estimated number of same-sex marriages (see e.g., Black et al 2007, O'Connell and Gooding 2007, or Kreider and Lofquist 2015). To address these errors, we use methods developed by the Census that rely on the correspondence of first names and gender. Despite the use of similar methods, the analysis reveals substantial differences between Census- and tax-derived estimates of the same-

sex married population at the national level and across states. In 2015, the number of same-sex joint filers (250,450) is 59 percent of the Census estimate of the number of same-sex spouses (425,357; Census 2016). In contrast, the ratio for different-sex couples is 92 percent (51.8 million versus 56.3 million). Estimates of the corresponding economic characteristics, such as the distribution of income, are more similar between Census and tax data.

Our hypothesis is that a sizable share of same-sex couples who describe themselves as married were more likely to be partners who were not legally married. Research suggests that some same-sex couples in long-term, marriage-like relationships, civil unions, or domestic partnerships describe their partners as "spouses" even before being legally married (Gates 2010). (Only legally-married couples may file joint tax returns.) In addition, the gap between the tax- and Census-based estimates shrinks after same-sex marriage is legalized in a state, as one might expect when partners became eligible to be legally-married. Finally, evidence from state vital statistics suggests that the cumulative number of state-issued marriage licenses to same-sex couples corresponds more closely to the number of same-sex tax filers. Other potential sources of difference, like non-filing, state-imposed barriers to joint filing, non-compliance, or measurement error appear to be too small to explain much of the difference.

As a result, we view these estimates as consistent with Census- or other survey-based measures of same-sex relationships. The tax-based estimates measure an important and policy-relevant subset of these couples: those in legally recognized marriages. In this sense, this paper identifies a new data source and contributes new evidence to a rich literature examining the demographics and economic characteristics of same-sex married couples.

METHODOLOGY

An empirical challenge in our analysis is that even rare classification errors in gender reporting based on data from tax forms can lead to large biases in estimates of the size of the population. To address this bias, we adopt Census-developed methods for reducing misclassification error using indices based on the gender specificity of first names.

The basic intuition behind this method is to place more weight on information from couples where names and genders correspond, and thus are less likely to involve a coding error, and less weight when they disagree, and where a misclassification error is more likely. This approach involves three steps: First, we construct an index of the "maleness" (or "femaleness") of a first name. We (and Census) use the empirical share of individuals with each name who are male (female). We construct our index primarily from the Social Security Administration's index of "baby names". Most names are highly polarized by gender, gender-name conventions are relatively stable across states and over time, and most people have common names, which means that the index is a good indicator of whether gender is reported accurately.

Second, we compare the reported gender to the gender predicted by the name index. We assume the reported gender is validated if the index value is greater than 0.95 for that name. Overall, in 85 percent of couples the name index matches the SSA-reported gender of both individuals (i.e., when we observe male-female in the administrative data the name index of the primary filer is at least 95 percent male and the name index is at least 95 percent female for the secondary taxpayer). For observed male and female couples, however, the correspondence rate is 33 percent—meaning that in two thirds of cases, the name and reported gender of at least one individual does not match, suggesting misclassification. Excluding couples missing one or both name indices and couples where the name index fails to confirm the SSA-reported gender leaves 77 percent of the original population with name-validated gender information. Within this validated sample, the likelihood of misclassification is very small.

Third, for the remaining 23 percent of couples for which the index is either missing or does not match the SSA-reported gender, we treat the classification of the couple as missing. To arrive at national estimates and estimates by state, AGI class, age, and presence of children, we assume couples with missing or inconsistent name indices are missing at random and have the same propensity to be in male-female, female, or male marriages as couples with the same characteristics and living in the same state.

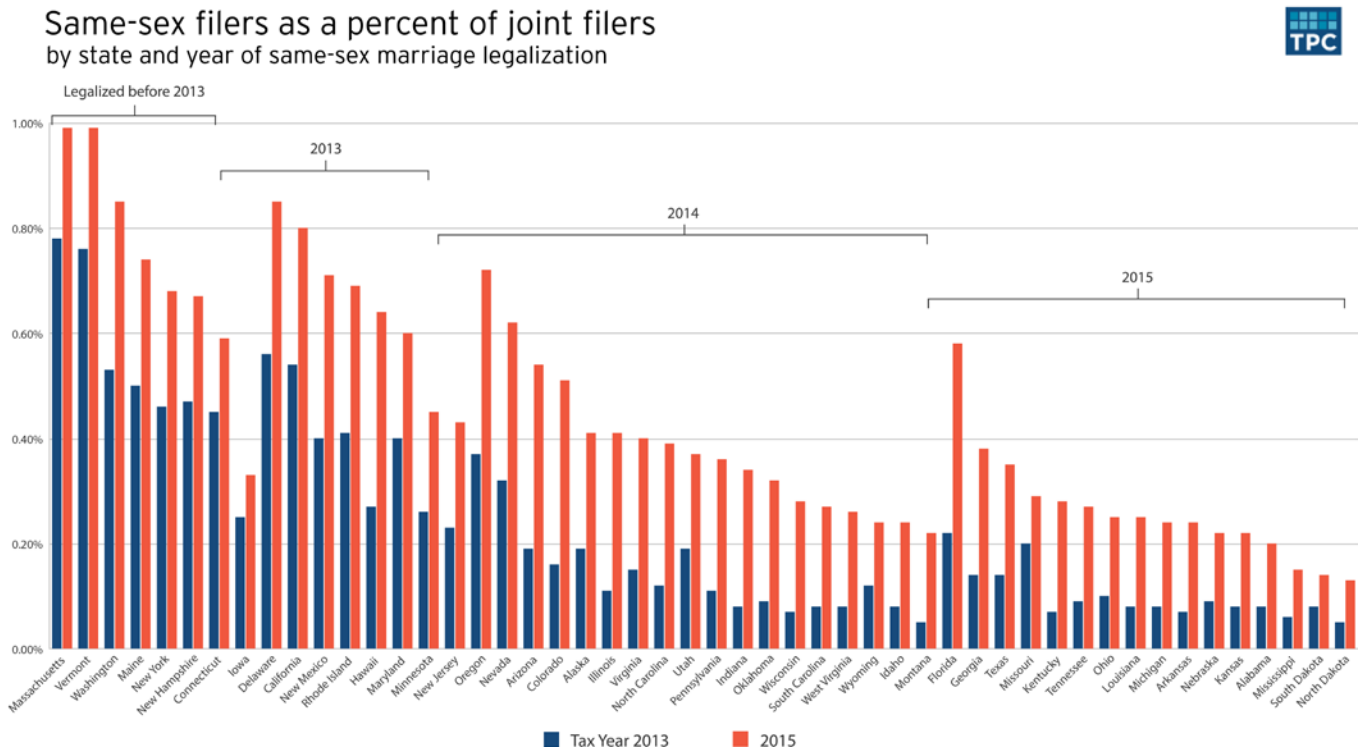
We then tabulate estimates by state, AGI class, age categories, the presence of children, and certain geographic regions whose populations were sufficiently large to allow disclosure. Estimates of the magnitude of sampling or modeling error are not available for this analysis because the data represent population tabulations any error arises from misclassification and our model-based correction. While the evidence we present indicates the error is small, the reader should bear in mind that no hypothesis tests have been performed.

OVERVIEW

For the United States as a whole, we estimate that approximately 0.48 % of all joint filers were same-sex filers, or approximately 250,450 couples (of 52.1 million joint filers). The proportion of married filers that were same-sex couples varied substantially across the country, from approximately 4.2 % of married filers in Washington, DC; 1.0 % in Massachusetts and Vermont; and close to 0.8 % in Delaware, California, and Washington; to less than 0.2 % in Mississippi and North Dakota. In general, the share of filers in same-sex marriages was greatest in those states that legalized same-sex marriage earliest and in coastal states, and was lowest in states in the south and Midwest.

Figure 1

Same-sex filers as a percent of joint filers
by state and year of same-sex marriage legalization



Between 2013 and 2015, the number of same-sex filers increased by 91 %, from 131,080 to 250,450. The growth in the number of same-sex filers over this period was greatest in those states where same-sex marriage was legalized in 2014 and 2015, a pattern consistent with same-sex couples in those states exercising their new legal rights.

To examine differences in the rate of same-sex joint filing across states, Fig. 1 relates the proportion of same-sex filers by state (excluding Washington, DC) to the year in which same-sex marriage was legalized. In general, rates of same-sex filing are highest in states that had legalized same-sex marriage in 2013 or earlier. Although rates were relatively lower in 2013, 2014, and 2015 in states that did not legalize same-sex marriage until 2015, the percentage increase in same-sex filing between 2013 and 2015 was higher in those states.

OVERVIEW

In 2015, same-sex couples were slightly younger (based on the age of the primary taxpayer) relative to different-sex couples and were substantially less likely to be over age 65. Although 48 % of different-sex couples claimed children as dependents, only 7 % of male couples and 28 % of female couples claimed children. Compared with different-sex couples, same-sex couples tended to have higher average incomes and were more likely to earn more than $150,000, with male couples being almost twice as likely. The average AGI of male couples was approximately $165,960, compared with $118,415 for female couples and $115,210 for different-sex couples. Different-sex couples with dependent children have slightly higher incomes than similar couples without children ($122,150 compared with $105,983) and are slightly more likely (21 % compared with 16 %) to earn more than $150,000.

This pattern in which families with dependent children had higher incomes is also true for female and male couples but is particularly striking for male couples, for which the average income of couples with children is approximately $264,000. Almost one-half of male couples with children earn more than $150,000. Differences between female couples with and without children are much smaller.

Geographic differences are an important contributor to differences in incomes across groups, reflecting the fact that same-sex couples are more likely to be of working age and to live in major metropolitan areas and coastal states where incomes (and costs of living) are relatively high. When reweighting male-female couples' incomes to correspond with to female-female couples' places of residence (one way to adjust for differences in geographic residence), our analysis shows female-female couples earn about 92 percent of what different-sex couples of the same age earn. Reweighting the incomes of these incomes to correspond with male-male couples' places of residence shows male-male couples earn about 112 percent of different-sex couples of the same age.

The population files allow for a more granular examination of the geographic distribution of same-sex joint filers than is possible with survey-based data. To highlight some of these differences, Table 1 lists the 20 three-digit ZIP code areas with the highest estimated proportion of male and female same-sex couples among joint filers in the 500 most-populous three-digit ZIP code areas (those with more than approximately 31,000 married couples). For example, the table shows that more than 3 % of married couples in downtown San Francisco are male same-sex couples. The highest shares of male same-sex filers exist in the central areas of San Francisco, the District of Columbia, New York City, and in other major cities (e.g., Seattle, Boston, Atlanta, Chicago, Portland, and Minneapolis). Among female couples, relatively small cities and towns are prevalent—for example, Springfield, Massachusetts; Madison, Wisconsin; Santa Fe, New Mexico; Durham, North Carolina; Burlington, Vermont; and those towns on the coast of Delaware.

TABLE 1

Top 20 among the 500 Largest 3-Digit Zip Codes

Number of Same Sex Couples and their Share of Married-Filing-Jointly Returns 2015

Female				Male			
Order by share of marriages	3-Digit Zip Code	Number	Share of Marriages	Order by share of marriages	3-Digit Zip Code	Number	Share of Marriages
1	Oakland, CA 946	1,197	2.2%	1	San Francisco, CA 941	4,263	3.5%
2	Seattle, WA 981	2,112	1.4%	2	Washington, DC 200	1,687	3.1%
3	San Francisco, CA 941	1,469	1.2%	3	New York, NY 100	4,357	2.7%
4	Springfield, MA 010	892	1.1%	4	California 922	2,249	2.0%
5	Portland, OR 972	1,584	1.1%	5	Seattle, WA 981	2,423	1.6%
6	Long Beach, CA 908	605	1.1%	6	Ft. Lauderdale, FL 333	1,661	1.6%
7	Washington, DC 200	561	1.0%	7	Oakland, CA 946	808	1.5%
8	Madison, WI 537	455	1.0%	8	Los Angeles, CA 900	3,013	1.3%
9	Boston, MA 021	1,684	1.0%	9	Atlanta, GA 303	1,204	1.2%
10	Durham, NC 277	350	0.9%	10	Long Beach, CA 908	663	1.2%
11	Boston, MA 024	739	0.92%	11	Boston, MA 021	1,880	1.13%
12	Sacramento, CA 958	978	0.89%	12	Jersey City, NJ 073	321	0.98%
13	Albuquerque, NM 875	297	0.84%	13	San Diego, CA 921	1,928	0.88%
14	Silver Spring, MD 209	407	0.83%	14	Chicago, IL 606	2,389	0.87%
15	North Bay, CA 954	692	0.80%	15	Arlington, VA 222	270	0.80%
16	Tacoma, WA 984	487	0.75%	16	Van Nuys, CA 914	318	0.78%
17	Burlington, VT 054	336	0.74%	17	Portland, OR 972	1,049	0.73%
18	New York, NY 100	1,183	0.74%	18	Dallas, TX 752	1,114	0.72%
19	Minneapolis, MN 554	1,236	0.73%	19	New Orleans, LA 701	222	0.64%
20	Delaware, 199	477	0.71%	20	Minneapolis, MN 554	1,078	0.64%

Source: Office of Tax Analysis 2016

CONCLUSION

This paper provides new, detailed statistics on the characteristics of same-sex married couples filing joint tax returns drawn from administrative data sources. The use of administrative data has strong advantages over survey-based measures for studying small populations like the married same-sex couples, providing more precise information regarding their economic and demographic characteristics, and geographic distribution. For example, in our analysis we were able to narrow down our results to 3- and 5-digit zip code areas. In 2015, about 0.48 percent of all joint filers were same-sex couples, with the highest shares of male-male couples living in the central areas of major cities like San Francisco, Washington DC, and New York, and the largest shares of female-female couples living in smaller cities and towns such as Springfield, MA, Madison, WI, and Santa Fe, NM.

The data show striking differences between same-sex and different-sex couples in terms of income, presence of children, and place of residence. While we explore some sources of differences and speculate as to others, many interesting and important questions related to employment, income, family structure, living arrangements of children, the relationship between family responsibilities and economic outcomes, or the role of state and federal policies remain for future work

REFERENCES

Black, D., Gates, G.J., Sanders, S.G., and Taylor, L. (2007). "The Measurement of Same-Sex Unmarried Partner Couples in the 2000 U.S. Census." California Center for Population Research Working Paper.

Black, D. A., S. G. Sanders, and L. J. Taylor. (2007). "The Economics of Lesbian and Gay Families." The Journal of Economic Perspectives 21, no. 2 (2007): 53–70.

Census (2016). "Characteristics of Same-Sex Couple Households: 2005 to Present" American Community Survey 1-year data file.

Fisher, Robin, Geof Gee and Adam Looney (2018). "Same-Sex Married Tax Filers After Windsor and Obergefell." Tax Policy Center.

Gates, Gary J. (2010) "Same-sex couples in US Census Bureau Data: Who gets counted and why." Williams Institute, UCLA School of Law.

Kreider, R. and D. Lofquist. (2015). "Matching Survey Data with Administrative Records to Evaluate Reports of Same-sex Married Couple Households." U.S. Census, SEHSD Working Paper 2014-36.

O'Connell, M., Gooding, G. (2007). "Editing Unmarried Couples in Census Bureau Data." Housing and Household Economic Statistics Division, U.S. Bureau of the Census.

Social Security Administration (2016). "Beyond the Top 1000 Names." National data. https://www.ssa.gov/oact/babynames/names.zip

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