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No Offense Honey, I'm Filing My Taxes Separately

Whether you are new to marriage or have decades under your belt, it pays to think about your tax filing status. There is a strong knee-jerk “file jointly” reaction, with 95% of married couples filing that way. Yet there is increasing evidence that filing jointly—at least without careful thought—can be shortsighted. Newly marrieds, old married couples, and same sex couples who may have an opportunity to file jointly for the first time may now be rethinking whether it’s such a good deal.

There are [five filing choices](#): Single, Married Filing Jointly, Married Filing Separately, Head of Household and Qualifying Widow(er) with Dependent Child. The Head of Household status may be the one most often claimed in error. In [Choosing the Right Filing Status](#), the IRS lists pointers about filing status options. Some of the rules are black and white, like these:

Last day of the year. Your marital status on the last day of the year determines your marital status for the entire year. So to be *eligible* to file a married filing joint return, you must be married on December 31st.

Legal Separation. If you are legally separated under state law you can file single. Of course, if you are legally divorced you can also file single. But if you are still married on December 31st and *not* legally separated, you’ll need to file married (presumably filing separate), not single.



Doubling Up. If more than one filing status applies, you can pick the one giving you the lowest tax. You and your spouse may pay lower taxes by filing married filing jointly. But sometimes even if you would pay less that way, it is worth considering filing separately.

Legal, Tax or Credit Problems? If one spouse has current or past legal, tax or credit problems, separate filings can save you headaches. That's true with couples who have separate property too. If one spouse comes into the marriage with many assets and with a prenuptial agreement, separate tax filings help keep things separate. Of course, if divorce is on the horizon, that is another good reason to file separately.

Innocent Spouse? By filing jointly, each of you is 100% liable regardless of who had the income. What if you learn that your spouse had unreported income? You are on the hook too, and for 100%, not just for half. If you're worried about your spouse's tax debts, get some advice. If you file jointly and later face joint liabilities, you may be able to claim [innocent spouse relief](#), but isn't easy. Yet you can avoid these issues *entirely* by filing married filing separate.

Death of Spouse. If your spouse died and you did not remarry during that year, you usually can still file a joint return for that year.

Head of Household? This status generally applies to taxpayers who are unmarried. You must also have paid more than half the cost of maintaining a home for yourself and a qualifying person.

Qualifying Widow(er) with Dependent Child. You may be able to choose this as your filing status if your spouse died, you have a dependent child, and you meet certain other conditions.

Most people don't devote *any* thought to their filing status. That can be a mistake. Run the numbers both ways and consider if joint or separate returns are better for you. Don't merely consider the marginal tax dollars. Even if you'll pay less by filing jointly, weigh the pros and cons. It can be worthwhile to keep returns separate, especially if one spouse has past credit, tax or legal problems or any of these problems seem likely in the future.

Separate filings help keep assets from being co-mingled too, which can make divorce less consequential. To learn more, check out IRS [Publication 501](#), Exemptions, Standard Deduction, and Filing Information. You can also use the [Interactive Tax Assistant](#) (ITA) on the IRS website. It takes you through a series of questions and provides you with responses. Avoid the automatic joint filing reaction, and think through what is best for you.

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