TAX LAW

The Perils of Filing Jointly

Most married couples file a joint return, but it's not always the best strategy.

For newlyweds as well as for those who've been happily married for decades, it pays to think carefully about your tax filing status. Approximately 95 percent of all married couples file jointly, but in certain cases that may be shortsighted.

Filing Options: The five basic filing choices for taxpayers are: single; married filing jointly; married filing separately; head of household; and qualifying widow(er) with dependent child.

Marital status for a given tax year is determined on the last day of the year. Thus, if you were married on December 31, you can file under either "married" option. (However, if during the year your spouse died and you did not remarry, you usually can *still* file a joint return for that year.)

But being eligible to file a given way doesn't mean you have to do so.

Do the Math: Determining which filing category is best for you is pretty straightforward: Do the math and assess the risks. Then, like most people, you'll likely select the filing status that results in the lowest overall tax. But that should not be the only consideration.

One reason the overwhelming majority of couples file jointly is that it lowers their tax bill. Yet by filing jointly, each spouse becomes 100 percent liable for the couple's joint taxes, regardless of which spouse generated the income or caused the problem.

Nevertheless, sometimes the "married filing separately" path is worth considering—even if it results in a bigger overall tax bill.

Separate Liability: When a married couple files separately, each taxpayer is liable only for the items reported on his or her separate return. Thus, if the tax difference is small but worries about the potential joint liability are large, "married filing separately" may be an easy choice.

For example, suppose one spouse has current or past legal, tax, or credit problems. Separate tax filings can avoid headaches in this situation—because the other spouse does not sign on for tax liabilities that may be tied to the troubled spouse's separate return. Marriage still ties the two together, but for tax purposes they are separate. IRS Publication 504 states: "If you and your spouse file separately, you each are responsible only for the tax due on your own return."

Other Reasons: If one spouse comes into the marriage with substantial assets (perhaps protected by a prenuptial agreement), separate tax filings can help continue to keep things separate. And of course, if divorce is looming on the horizon as year-end approaches—or even later, at tax filing time—that may be yet another reason to consider filing separately.

Hidden Problems: But what if you learn that your spouse (who by then could be a former or deceased spouse) had unreported income from gambling or a hidden, offshore bank account? If you file jointly, then you're on the hook for your married partner's tax liabilities, even if you didn't know about them. What's more, you're on the hook for *100 percent*—not 50 percent—of those liabilities.

Filing separately may solve that problem. But is it worth paying higher taxes to do so? One way to look at the situation is to think of the additional outlay as a form of insurance against an unknown future.

Don't Forget California: While you're running numbers, go ahead and run (or have your accountant run) your California taxes both ways too. Note, however, that you cannot mix and match: Whatever filing status you choose for your federal return you must also use for your California return.

Online Resources: The IRS offers useful advice to taxpayers through its extensive website, www.irs.gov. Examples include IRS Tax Tip 2014-13, "Choosing the Right Filing Status," and IRS Publication 501, "Exemptions, Standard Deduction, and Filing Information." A related document—IRS Publication 504, "Divorced or Separated Individuals"—provides specialized information about filing status and divorce.

Finally, take advantage of the Interactive Tax Assistant on the IRS website. (This automated question-and-answer tool is oriented for taxpayers who were U.S. citizens or resident aliens for the entire tax year in question.)

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