



H.B. 753

123rd General Assembly
(As Referred by Rules and Reference)

Reps. Tiberi, Calvert, Buehrer, Willamowski, Grendell, R. Miller, Schuck, Young, Terwilleger, Goodman, Robinson, D. Miller, Boyd, Jolivette, Evans, Mettler, Barrett, Peterson, Allen, Netzley, Harris, Patton, Trakas, Damschroder

BILL SUMMARY

- Permits spouses to file a joint Ohio income tax return or each spouse to file a separate Ohio income tax return, regardless of whether the spouses filed joint or separate federal returns.
- Requires spouses filing separate returns to allocate amongst themselves any additions to or deductions from taxable income, tax exemptions, tax credits, and other tax items.

CONTENT AND OPERATION

Income tax filing status--current law

(secs. 5747.08 and 5747.09)

Currently, married couples filing a joint federal income tax return must file a joint Ohio income tax return, and spouses filing separate federal returns must file separate Ohio returns. The only circumstance under which spouses may choose their Ohio filing status independently of their federal filing status is if only one spouse is required to file a federal return but both spouses must file an Ohio return. A couple filing a joint return are jointly and severally liable for any underpayment of tax, any penalties or interest, or any other liabilities arising from a tax deficiency.¹

¹ *Joint and several liability means that the liability may be apportioned among the spouses in the proportions decided by the state--including apportioning the entire liability to one of the two spouses. Currently, Ohio statutory law does not grant so-called "innocent spouse" relief (which recently was enhanced in federal tax law), whereby,*

A couple filing separate returns may not claim the other spouse's personal exemption.

A couple filing a joint return also must file quarterly estimated tax reports together if such a report is required. (Estimated tax reports are required if a couple's estimated annual tax liability, less withheld taxes, is \$500 or more.)

Permit couples to choose Ohio filing status

The bill permits married couples to choose their Ohio income tax filing status--joint or separate--regardless of their federal filing status. Spouses who file separately are required to allocate between them as they choose, any additions to and deductions from their incomes, tax credits, and dependent exemptions, to which they are jointly entitled. Each spouse must claim his or her own personal exemption. Any other allocations are to be made in accordance with rules the Tax Commissioner must adopt. The rules must require spouses to allocate the items in the same manner as provided under federal law.

If spouses file jointly, their liability continues to be joint and several; if they file separately, their liabilities continue to be separate.

The bill also provides that spouses filing separate Ohio income tax returns may file a joint estimated tax report and, if they do so, they must allocate between them the estimated taxes that they have paid when they report those payments on their returns.

The bill applies to taxable years beginning after 2000.

under certain circumstances, one spouse does not bear liability for the other spouse's tax deficiency arising from erroneous claims for deductions, underreporting of income, etc. In order to claim such relief, federal law requires a spouse to demonstrate that he or she did not know, and had no reason to know, that the other spouse understated the tax due, and that holding the innocent spouse liable would be inequitable under all circumstances.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	08-14-00	p. 2205

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