



Bethany Boyd

Bill Analysis
Legislative Service Commission

S.B. 35

126th General Assembly
(As Introduced)

Sens. Spada, Jacobson, Coughlin, Clancy, Mumper

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 they filed joint or separate federal income tax returns.
- Requires spouses filing separate Ohio income tax returns to allocate between themselves any additions to or deductions from taxable income, tax exemptions, tax credits, and other tax items.

CONTENT AND OPERATION

Income tax filing status under current law

(R.C. 5747.08 and 5747.09)

Currently, Ohio law requires that if married couples file a joint federal income tax return, they must file a joint Ohio income tax return, but if they file separate federal returns, they 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, which means that liability may be apportioned between the spouses in the proportions decided by the state, including apportioning the entire liability to one of the spouses. A couple filing separate returns have separate liability and they may not claim the other spouse's personal exemption.

A couple filing a joint return also must file quarterly a joint declaration of estimated taxes if such a declaration is required. (Estimated tax declarations are

required if a couple's estimated annual tax liability, less withheld taxes, is \$500 or more.)

Couples may choose Ohio filing status under the bill

(R.C. 5747.08(E) and 5747.09(B); Section 3)

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 themselves as they choose, any additions to and deductions from their incomes, exemptions for dependents, and tax credits 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 under the bill. The rules must require other allocations of items to be made in a manner corresponding to treatment of those items for federal income tax purposes.

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 declaration of estimated taxes. If they do so, they must allocate between them the estimated taxes that they have paid when they report those payments on their separate returns.

The bill first applies to taxable years beginning on or after January 1, 2006.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-26-05	p. 111

S0035-I-126.doc/jc