



Ohio Legislative Service Commission

Bill Analysis

Sam Benham

H.B. 396

130th General Assembly
(As Introduced)

Reps. Becker, Hood, Stebelton

BILL SUMMARY

- Authorizes a husband and wife to elect to file either separate state income tax returns or a joint state income tax return regardless of their federal filing status.

CONTENT AND OPERATION

State income tax filing status for married couples

The bill authorizes a husband and wife to elect to file either separate state income tax returns or a joint state income tax return regardless of their federal filing status. Under current law, husbands and wives are required to maintain the same filing status for their state income tax return as they elected for their federal income tax return. Continuing law permits husbands and wives to elect either separate or joint filing status if one or both spouses is not required to file a federal income tax return but is required to file a state income tax return.¹

Ohio taxes income under a single graduated rate structure. Taxpayers owe the same rate for any given level of taxable income regardless of joint or separate filing status. As a result, a married couple filing a joint Ohio return may have more income subjected to a higher marginal tax rate than an individual taxpayer filing a separate return. For example, if each spouse has \$40,000 in taxable income in 2013, each spouse would be subject to a top marginal rate of 3.222% if they file separate returns. If the couple files a joint return, they would be subject to a top marginal rate of 3.760%. This result of joint filing status is sometimes referred to as the "marriage penalty."

To at least partly compensate for this effect, continuing law allows a husband and wife filing a joint state income tax return to claim a joint filing credit if each spouse

¹ R.C. 5747.08.

has at least \$500 in earnings and pension income. The credit ranges from 20% of the tax otherwise due (for taxable income of \$25,000 or less) to 5% (for taxable income exceeding \$75,000). The maximum joint filer credit that may be claimed for a taxable year is \$650.²

COMMENT

The United States Department of the Treasury and the Internal Revenue Service (IRS) recently ruled that same-sex couples who are legally married will be treated as married for federal income tax purposes.³ In response to the federal ruling, the Ohio Department of Taxation issued guidance prohibiting same-sex couples married in other jurisdictions from filing joint Ohio income tax returns even if they file joint federal returns, citing Ohio's constitutional provision (Article XV, Sec. 11) barring state recognition of marriage between persons of the same sex.⁴ Instead, each spouse of a same-sex married couple filing a joint federal return must file a separate Ohio return and make adjustments to their joint federal adjusted gross income to derive their separate Ohio adjusted gross incomes.

HISTORY

ACTION	DATE
Introduced	12-23-13

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² R.C. 5747.05 (not in the bill).

³ "Treasury and IRS Announce that All Legal Same-sex Marriages Will be Recognized for Federal Tax Purposes; Rule Provides Certainty, Benefits and Protections Under Federal Tax Law for Same-sex Married Couples," *Internal Revenue Service*, August 29, 2013, available at: <http://www.irs.gov/uac/Newsroom/Treasury-and-IRS-Announce-That-All-Legal-Same-Sex-Marriages-Will-Be-Recognized-For-Federal-Tax-Purposes;-Ruling-Provides-Certainty,-Benefits-and-Protections-Under-Federal-Tax-Law-for-Same-Sex-Married-Couples> (last visited March 5, 2013).

⁴ Information Release IT 2013-01, December 19, 2013.

