PUBLICATION 17, YOUR FEDERAL INCOME TAX (for Individuals)

was a nonresident alien or dual-status alien who was married to a U.S. citizen or resident alien at the end of the year, the spouses can choose to file a joint return. If you do file a joint return, you and your spouse are both treated as U.S. residents for the entire tax year. See chapter 1 of Pub. 519.

Married Filing Separately

You can choose married filing separately as your filing status if you are married. This filing status may benefit you if you want to be responsible only for your own tax or if it results in less tax than filing a joint return.

If you and your spouse don't agree to file a joint return, you must use this filing status unless you qualify for head of household status, discussed later.

You may be able to choose head of household filing status if you are considered unmarried because you live apart from your spouse and meet certain tests (explained under *Head of Household*, later). This can apply to you even if you aren't divorced or legally separated. If you qualify to file as head of household, instead of as married filing separately, your tax may be lower, you may be able to claim the earned income credit and certain other credits, and your standard deduction will be higher. The head of household filing status allows you to choose the standard deduction even if your spouse chooses to itemize deductions. See *Head of Household*, later, for more information.

TIP *You will generally pay more combined tax on separate returns than you would on a joint return for the reasons listed under Special Rules, later. However, unless you are required to file separately, you should figure your tax both ways (on a joint return and on separate returns). This way you can make sure you are using the filing status that results in the lowest combined tax. When figuring the combined tax of a married couple, you may want to consider state taxes as well as federal taxes.*

How to file. If you file a separate return, you generally report only your own income, exemptions, credits, and deductions. You can claim an exemption for your spouse only if your spouse had no gross income, isn't filing a return, and wasn't the dependent of another person.

You can file Form 1040. If your taxable income is less than $100,000, you may be able to file Form 1040A. Select this filing status by checking the box on line 3 of either form. Enter your spouse's full name and SSN or ITIN in the spaces provided. If your spouse doesn't have and isn't required to have an SSN or ITIN, enter "NRA" in the space for your spouse's SSN. Use the *Married filing separately* column of the Tax Table or Section C of the Tax Computation Worksheet to figure your tax.

Special Rules

If you choose married filing separately as your filing status, the following special rules apply. Because of these special rules, you usually pay more tax on a separate return than if you use another filing status you qualify for.

1. Your tax rate generally is higher than on a joint return.
2. Your exemption amount for figuring the alternative minimum tax is half that allowed on a joint return.
3. You can't take the credit for child and dependent care expenses in most cases, and the amount you can exclude from income under an employer's dependent care assistance program is limited to $2,500 (instead of $5,000). However, if you are legally separated or living apart from your spouse, you may be able to file a separate return and still take the credit. For more information about these expenses, the credit, and the exclusion, see chapter 32.
4. You can't take the earned income credit.
5. You can't take the exclusion or credit for adoption expenses in most cases.
6. You can't take the education credits (the American opportunity credit and lifetime learning credit), or the deduction for student loan interest.
7. You can't exclude any interest income from qualified U.S. savings bonds you used for higher education expenses.
8. If you lived with your spouse at any time during the tax year:
   a. You can't claim the credit for the elderly or the disabled, and
   b. You must include in income a greater percentage (up to 85%) of any social security or equivalent railroad retirement benefits you received.
9. The following credits and deductions are reduced at income levels half of those for a joint return.
   a. The child tax credit.
   b. The retirement savings contributions credit.
   c. The deduction for personal exemptions.
   d. Itemized deductions.
10. Your capital loss deduction limit is $1,500 (instead of $3,000 on a joint return).
11. If your spouse itemizes deductions, you can't claim the standard deduction. If you can claim the standard deduction, your basic standard deduction is half of the amount allowed on a joint return.

CAUTION *At the time this publication was prepared for print, the tuition and fees deduction had expired. Even if it is extended, you can't take it if your filing status is married filing separately. To see if it was extended, go to Recent Developments at IRS.gov/Pub17.*

Adjusted gross income (AGI) limits. If your AGI on a separate return is lower than it would have been on a joint return, you may be able to deduct a larger amount for certain deductions that are limited by AGI, such as medical expenses.

Individual retirement arrangements (IRAs). You may not be able to deduct all or part of your contributions to a traditional IRA if you or your spouse were covered by an employee retirement plan at work during the year. Your deduction is reduced or eliminated if your income is more than a certain amount. This amount is much lower for married individuals who file separately and lived together at any time during the year. For more information, see *How Much Can You Deduct* in chapter 17.

Rental activity losses. If you actively participated in a passive rental real estate activity that produced a loss, you generally can deduct the loss from your nonpassive income, up to $25,000. This is called a special allowance. However, married persons filing separate returns who lived together at any time during the year can't claim this special allowance. Married persons filing separate returns who lived apart at all times during the year are each allowed a $12,500 maximum special allowance for losses from passive real estate activities. See *Limits on Rental Losses* in chapter 9.

Community property states. If you live in a community property state and file separately, your income may be considered separate income or community income for income tax purposes. Community property states include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin. See Pub. 555.

Joint Return After Separate Returns

You can change your filing status from a separate return to a joint return by filing an amended return using Form 1040X.

You generally can change to a joint return any time within 3 years from the due date of the separate return or returns. This doesn't include any extensions. A separate return includes a return filed by you or your spouse claiming married filing separately, single, or head of household filing status.

Separate Returns After Joint Return

Once you file a joint return, you can't choose to file separate returns for that year after the due date of the return.

Exception. A personal representative for a decedent can change from a joint return elected by the surviving spouse to a separate return for the decedent. The personal representative has 1 year from the due date of the return (including extensions) to make the change. See Pub. 559, Survivors, Executors, and Administrators, for more information on filing a return for a decedent.

Head of Household

You may be able to file as head of household if you meet all the following requirements.