

ASSEMBLY, No. 305

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman BODINE

1 AN ACT allowing married individuals an option to file joint or separate
2 tax returns, amending N.J.S.54A:8-3.1.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. N.J.S.54A:8-3.1 is amended to read as follows:

8 54A:8-3.1. Persons required to file. a. On or before the filing date
9 prescribed in section 1 of this chapter (N.J.S.54A:8-1), an income tax
10 return shall be made and filed by or for an individual, whether filing as
11 unmarried or determining tax pursuant to subsection a. of
12 N.J.S.54A:2-1, an estate or trust, having a gross income in excess of
13 \$3,000.00, and by or for a married couple filing a joint return and
14 having joint gross income in excess of \$3,000.00 (\$1,500.00 or more
15 in the case of a married person filing separately).

16 b. If the income tax liability of husband and wife is determined on
17 a separate return for federal income tax purposes, they shall each also
18 file a separate return for New Jersey income tax purposes and their
19 income tax liabilities under this act shall be separate.

20 c. If the income tax liabilities of husband and wife are determined
21 on a joint return for federal income tax purposes, they shall [also] file
22 either a joint return or separate returns for New Jersey income tax
23 purposes and their tax liabilities [under] pursuant to this act under a
24 joint return shall be joint and several or under separate returns shall be
25 separate.

26 d. If either husband or wife is a resident and the other is a
27 nonresident, they shall file separate tax returns under this act on such
28 single or separate forms as may be required by the director in which
29 event their tax liabilities shall be separate unless both elect to
30 determine their joint taxable income as if both were residents, in which
31 event their liabilities shall be joint and several.

32 e. The return for any deceased individual shall be made and filed by

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 his fiduciary or other person charged with his property.

2 f. The return for an individual who is unable to make a return by
3 reason of minority or other disability shall be made and filed by his
4 fiduciary or other person charged with the care of his person or
5 property (other than a receiver in possession of only a part of his
6 property), or by his duly authorized agent.

7 g. Any tax under this act, and any increase, interest or penalty
8 thereon, shall, from the time it is due and payable, be a personal debt
9 of the person liable to pay the same, to the State of New Jersey.
10 (cf: P.L.1990, c.61, s.15)

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12 2. This act shall take effect immediately.

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STATEMENT

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17 This bill gives a married couple filing a joint federal income tax
18 return the option to file either a joint State income tax return or
19 separate returns. Currently, if a married couple files a joint return for
20 federal income tax purposes, the couple must file under the same
21 status for State income tax purposes. However, in many cases a
22 married couple filing a joint return must pay a "marriage penalty,"
23 meaning that the couple's State income tax is higher under the joint
24 return than it would have been if they were able to file separate
25 returns.

26 For example, a married couple filing jointly with taxable income of
27 \$70,000 would pay State income taxes of \$1,850. That same couple,
28 if they each had \$35,000 of taxable income and if they could file
29 separate returns, would pay \$775 each, or \$1,550 combined. The
30 \$300 difference is a tax "marriage penalty" for being married and filing
31 a joint return.

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37 Allows a married couple filing a joint federal income tax return to file
either a joint State return or separate State returns.