Filing Status

Introduction

This lesson will help you determine the most advantageous (and allowable) filing status for the taxpayer. Selecting and entering the correct filing status is a critical component of completing the taxpayer's return.

See Tab B, Starting a Return and Filing Status, in the Volunteer Resource Guide for filing status interview tips with helpful probing questions to use in your interview with the taxpayer.

What do I need?

- ☐ Form 13614-C
- ☐ Publication 4012
- ☐ Publication 17

Optional:

- ☐ Publication 501
- ☐ Publication 555
- ☐ Publication 971
- ☐ Form 1040
- ☐ Form 2120
- ☐ Form 8379

Objective

At the end of this lesson, using your resource materials, you will be able to:

- Determine the most beneficial filing status allowed for the taxpayer.

What are the five filing statuses?

Taxpayers must use one of five filing statuses. Filing status impacts the calculation of income tax, affects the amount of the standard deduction, and determines allowance or limitation of certain credits and deductions. The following list puts them in order from the most beneficial to the least beneficial to the taxpayer.

- Married Filing Jointly
- Qualifying Widow(er)
- Head of Household
- Single
- Married Filing Separately

Note: Most nonresident aliens and dual status aliens have different filing requirements and may have to file Form 1040-NR. In this case, the return is Out of Scope. Refer the taxpayer to a site with Foreign Student certification.

TIP Taxpayers may qualify for more than one filing status. Choose the filing status that results in the lowest tax for the taxpayer. Use the Volunteer Resource Guide to help determine the correct filing status.

Tax Software Hint: Filing status is selected in the Basic Information section. Go to the Volunteer Resource Guide to review the software entries.

How does marital status affect filing status?

The first step in determining taxpayers' filing status is to confirm their marital status on *the last day of the tax year.* Avoid using information from the prior year, as it may have changed.

Generally, taxpayers are considered to be **unmarried** for the entire year if, on the last day of the tax year, they were:

- Unmarried.
- Legally separated from their spouse under a divorce or separate maintenance decree. State law governs whether taxpayers are married or legally separated under a divorce or separate maintenance decree.

Taxpayers are considered to be **married** for the entire year if:

- They were married on the last day of the tax year, **or**
- The spouse died during the year and the surviving spouse has not remarried

What are the requirements for each filing status?

Who is considered Single?

Taxpayers can use the Single filing status if, on the last day of the tax year, they were:

- Not married
- Legally separated or divorced, or
- Widowed before the beginning of the tax year and did not remarry

TIP A marriage that has been legally annulled is treated as never having existed, even if it is annulled in a later year.

Can Single taxpayers qualify for another status?

Some single taxpayers qualify for Head of Household or for Qualifying Widow(er) with Dependent Child status, which can mean a lower tax. These statuses will be discussed later in this lesson.

What is Married Filing Jointly?

Married taxpayers who choose to file a joint return will use one return to report their combined income and to deduct combined allowable expenses. Married taxpayers can select this status even if one of the spouses did not have any income or any deductions. The Married Filing Jointly status can be claimed by taxpayers who, on the last day of the tax year:

- Were married and lived together.
- Were married and living apart, but were not legally separated under a divorce or separate maintenance decree. State law governs whether taxpayers are married or legally separated under a divorce or separate maintenance decree.
- Were common law married pursuant to the laws of the state in which they live (or in the state where the common law marriage began) and the marriage has not been dissolved, such as by death or divorce.
- Are the surviving spouse who did not remarry before the end of the tax year (surviving taxpayer can file a joint return with the deceased spouse).

CAUTION Taxpayers who file a joint return can't choose to file separate returns for that year after the due date of the return.

TIP A citizen or resident alien married to a nonresident alien may be able to choose from more than one filing status. More information can be found in the Unique Filing Situations lesson.

CAUTION Filing a joint return for a common law marriage applies to the federal return only. Volunteers must check state or local laws before completing a state return. Volunteers are not responsible for determining whether a couple is in a common law marriage. If taxpayers are not certain, refer them to a professional tax preparer.

What are the responsibilities of each taxpayer on a joint return?

Both taxpayers must include all worldwide income on their joint return. They each may be held responsible for all the tax and for any interest or penalty due, even if all the income was earned by only one spouse. A subsequent divorce usually does not relieve either spouse of the liability associated with the joint return.

In some cases, a spouse may be relieved of joint liability. Information is available in Publication 971, Innocent Spouse Relief, however, this topic is beyond the scope of the VITA/TCE programs. Refer taxpayers in this situation to a professional tax preparer.

When a joint return is filed and only one spouse owes a past-due amount, the other spouse may be considered an injured spouse and able to claim their portion of a joint refund. This is discussed later in this lesson.

What is Married Filing Separately?

The Married Filing Separately status is for taxpayers who are married, and either:

- Choose to file separate returns, or
- Cannot agree to file a joint return

Taxpayers who file as Married Filing Separately each report their own income and deductions on separate returns. These rules do not apply in community property states. More information on community property is provided later in this lesson.

TIP Taxpayers can change their filing status from a separate return to a joint return by filing an amended return using Form 1040-X.

Can Married Filing Separately taxpayers qualify for another status?

Some married taxpayers may be considered unmarried even if they are not divorced or legally separated. Such taxpayers may be able to use the Head of Household filing status, which may result in a lower tax than Married Filing Separately. Refer to the topic “Can married taxpayers ever file as Head of Household?” in this lesson to see if the “considered unmarried” definition applies.

Why are taxes usually higher for Married Filing Separately?

Special rules apply to Married Filing Separately taxpayers, which generally result in a higher tax. For example, when filing separately:

- The tax rate is generally higher than on a joint return.
- Taxpayers cannot take the child and dependent care credit, education credits, and certain other benefits and credits.
- Some credits and deductions, such as the child tax credit and the retirement savings contributions credit, are reduced at income levels that are half those for a joint return.
- If a taxpayer is Married Filing Separately and the spouse itemizes deductions on their return, the taxpayer must itemize and cannot take the standard deduction.

For Married Filing Separately taxpayers, enter the spouse’s name and Social Security number or ITIN on the tax return. If the taxpayer does not know the spouse’s Social Security number, refer to the Volunteer

Resource Guide, Tab B, Starting a Return and Filing Status, Entering Basic Information (continued). The return will need to be paper filed.

TIP Whether or not a spouse is itemizing is only a concern for Married Filing Separately status. Married taxpayers qualified to file as Head of Household can take the standard deduction even if their spouse is itemizing.

For the complete list of special rules, see Publication 17, Filing Status.

Are there special rules for taxpayers who live in community property states?

The income of taxpayers who lived in Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, or Wisconsin during the tax year and who choose to file separate returns may be considered separate income or community income for tax purposes. Each state has its own community property laws, which may affect the amount of tax owed by taxpayers. See Publication 555, Community Property, for more information.

If your tax assistance program views community property tax laws for taxpayers who are Married Filing Separately or who are filing as Head of Household because they can be considered unmarried for income tax filing purposes as beyond the scope of the program, refer such taxpayers to a professional tax preparer.

Tax Software Hint: If the taxpayer is in one of the community property states and is married and files a separate return from the spouse, Form 8958, Allocation of Tax Amounts Between Certain Individuals in Community Property States, must be completed in order to e-file the return. See the instructions for Form 8958 for details on completing the form.

If filing jointly generally results in the lowest total tax, why would married taxpayers want to file separately?

Married taxpayers sometimes choose to file separate returns when one spouse does not want to be responsible for the other spouse's tax obligations, or because filing separately may result in a lower total tax. For example, if one spouse has high medical expenses, separate returns may result in lower total taxes because a lower adjusted gross income allows more expenses to be deducted.

Another common reason taxpayers file as Married Filing Separately is to avoid an offset of their refund against their spouse's outstanding debts. This includes past due child support, past due student loans, or a tax liability the spouse incurred before they were married. If married taxpayers want to file separately, and a potential refund offset is the reason, suggest that they file a joint return with Form 8379, Injured Spouse Allocation or, after having filed separately, they can later amend and elect to file a joint return.

Who is considered to be an injured spouse?

When a joint return is filed and only one spouse owes a past-due amount, the other spouse can be considered an injured spouse. Injured spouses may file Form 8379 to receive their share of the refund shown on the joint return. The injured spouse:

1. Must not be legally obligated to pay the past-due amount, *and*
2. Must have made and reported tax payments (such as federal income tax withheld from wages or estimated tax payments), or claimed a refundable tax credit (see the credits listed in Publication 17 under Who Should File?).

Both of these conditions must apply *unless* the injured spouse lived in a community property state at any time during the tax year. In community property states, the injured spouse must meet only the first condition. If the taxpayer meets these requirements, Form 8379 can be e-filed with the joint return. See the Instructions for Form 8379 for details on how to complete the form.

If a taxpayer already filed a joint return and the refund was offset, Form 8379 can be filed by itself. When filed after the offset, it can take up to eight weeks for the taxpayer to receive a refund. Do not attach the previously filed tax return, but *do* include copies of all Forms W-2 and W-2G for both spouses and any Forms 1099 that show income tax withheld. The processing of Form 8379 may be delayed if these forms are not attached. A separate Form 8379 must be filed for each tax year to be considered.

CAUTION An injured spouse claim is different from an innocent spouse relief request. Form 8379 allows an injured spouse to request the division of the tax overpayment attributed to each spouse. An innocent spouse uses Form 8857, Request for Innocent Spouse Relief, to request relief from joint liability for tax, interest, and penalties on a joint return for items of the other spouse (or former spouse) that were incorrectly reported on the joint return. For information on innocent spouses, see Publication 17, Innocent Spouse Relief and Relief from Joint Responsibility. Form 8858 is out of scope for the VITA/TCE programs.

What if a spouse died during the tax year?

Remember, taxpayers whose spouses died during the tax year are considered married for the entire year, provided they did not remarry. The surviving spouse is eligible to file as Married Filing Jointly or Married Filing Separately.

Surviving spouses who have remarried must file with the new spouse, either jointly or separately. The deceased spouse's filing status becomes Married Filing Separately.

Surviving spouses who have a dependent child may be able to use the Qualifying Widow(er) status in the two tax years following the year of the spouse's death. This is discussed later in this lesson.

Who is Head of Household?

Taxpayers may qualify for the Head of Household filing status, if they:

- Are unmarried or "considered unmarried" on the last day of the tax year, and
- Paid more than half the cost of keeping up a home for the required period of time, and
- Had a qualifying person living in their home for more than half the year (except for temporary absences, such as school)

A qualifying person who is the taxpayer's dependent parent does not have to live with the taxpayer. However, the parent(s) must qualify as the taxpayer's dependent(s) for the taxpayer to qualify as Head of Household without using the multiple support provision (Form 2120, Multiple Support Declaration). For more information, review the Volunteer Resource Guide, Tab B, Starting a Return and Filing Status, Who is a qualifying person for Head of Household status?

For a married taxpayer to be "considered unmarried," there are special rules, discussed later in this topic.

What are the costs of keeping up a home?

The costs of keeping up a home include expenses such as rent, mortgage interest, real estate taxes, insurance on the home, repairs, utilities, and food eaten in the home. Under proposed regulations, a taxpayer may treat a home's fair market rental value as a cost of maintaining a household instead of the sum of payments for mortgage interest, property taxes, and insurance. See Publication 17, Filing Status, Keeping Up a Home, for more information.

Who is a qualifying person for Head of Household status?

Turn to the chart, Who Is a Qualifying Person Qualifying You To File as Head of Household? in the Volunteer Resource Guide. A qualifying person for Head of Household is defined as:

- A qualifying child who is single (whether or not the child can be claimed as a dependent)
- A married child who can be claimed as a dependent
- A dependent parent
- A qualifying relative who lived with the taxpayer more than half the year, *and* is one of the relatives listed on the chart, *and* can be claimed as a dependent by the taxpayer

Sometimes no one provides more than half of the support of an individual. Instead, two or more persons, each of whom would be able to claim the individual as a dependent but for the support test, together provide more than half of the individual's support. When this happens, a person who individually provides more than 10% of the individual's support can claim the individual as a dependent by agreement (Form 2120). An individual who is claimed as a dependent only because of a multiple support agreement is not a qualifying person for Head of Household status.

TIP A person may be a qualifying relative dependent, but not qualify the taxpayer for Head of Household filing status. For example, a companion or friend who lives with the taxpayer all year may be the taxpayer's dependent but not a qualifying person for Head of Household filing status.

Refer to the Volunteer Resource Guide, Tab B, Starting a Return and Filing Status, Who is a Qualifying Person Qualifying You To File as Head of Household? chart, when reviewing these examples. You will learn more about who can be claimed as a dependent in a later lesson.

example

Kate's unmarried 16-year-old daughter, Shelby, lived with her all year. Kate is single, provided all of Shelby's support, and paid all the costs of keeping up the home. Shelby is Kate's qualifying child dependent and is Kate's qualifying person for Head of Household filing status.

example

Michael provided all the costs of keeping up his home for the year. Michael's son Justin lived with him the entire year. Justin is 22 and was not a full-time student during the tax year, so he cannot be Michael's qualifying child. Although Justin only worked part-time, his income is greater than the gross income threshold amount for Michael to claim him as a qualifying relative dependent. Therefore, Michael cannot file Head of Household because he does not have a qualifying person.

example

Jane and Todd are not married. Their daughter, Amanda, lived all year with Jane in an apartment. Todd lived alone. Todd earns more than Jane, and provides for some of her living expenses. He paid over half the cost of Jane's rent and utilities. He also gave Jane extra money for groceries. Even though Todd paid over half the cost of providing a home for Jane and Amanda, he cannot file Head of Household because Amanda did not live with him over half the year. Jane cannot be Head of Household either because she did not provide more than half the cost of keeping up the home for her daughter.

example

Nancy is single and lives alone. Nancy's mother, Maxine, lives alone in another city. Maxine receives Social Security payments, but has no other income. Nancy pays all of the costs of keeping up the home her mother lives in, and provides over half her support. Even though Maxine did not live with her, Maxine is Nancy's qualifying person for Head of Household filing status because Nancy can claim her mother as a dependent under the rules for qualifying relative.

EXERCISES

Answers are after the lesson summary.

Question 1: Alexandra's younger brother, Sebastian, is seventeen years old. Sebastian lived with his grandparents for the first two months of the year. From March through July, he lived with Alexandra. On August 1, Sebastian moved in with some friends and stayed there for the rest of the year. Since Sebastian did not have a job, Alexandra gave him money every month. Assuming Alexandra had no other dependents, can she file as Head of Household? ☐ Yes ☐ No

example

Since her spouse died five years ago, Joan has lived with her friend, Mary Ann, who is also a widow. Joan is a U.S. citizen, is single, and lived with Mary Ann all year. Joan had no income and received all of her support from Mary Ann. Joan is Mary Ann's qualifying relative because she lived with Mary Ann all year as a member of her household. Mary Ann can claim Joan as a dependent on her return.

However, Joan is *not* a qualifying person for Head of Household filing status because she is not related to Mary Ann in one of the ways listed on the chart in the Volunteer Resource Guide. She is Mary Ann's qualifying relative dependent *only* because she lived with Mary Ann all year as a member of her household.

Notice that the relatives who qualify a person for Head of Household may not be the same individuals who could qualify as a taxpayer's dependent. One such situation is when the custodial parent releases the child's exemption to the noncustodial parent. The child remains the custodial parent's qualifying person for Head of Household status.

TIP The qualifying person for Head of Household filing status must be related to the taxpayer.

What are the advantages of filing as Head of Household?

The Head of Household filing status provides a higher standard deduction and, generally, a lower tax rate than Single or Married Filing Separately.

Who can be "considered unmarried" for Head of Household?

Married taxpayers may be "considered unmarried" and file as Head of Household if they:

- File a return for the tax year separate from their spouse.
- Paid more than half the cost of keeping up their home. See the Worksheet for Cost of Keeping Up a Home in the Volunteer Resource Guide.
- Lived apart from their spouse during the entire last six months of the tax year. The spouse is considered to have lived in the home even if temporarily absent due to special circumstances, such as military service or education.
- Provided the main home for more than half the year of a *dependent* child, stepchild, or foster child placed by an authorized agency. This test is also met if the taxpayer cannot claim the exemption only because the noncustodial parent can claim the child using the rules described in Publication 17.

example

Denise is married but has lived apart from her spouse for two years. Denise pays all the costs of keeping up her home for herself and her dependent 12-year-old son, who lives with her. Denise can choose to file as Head of Household for the tax year because she meets the definition of "considered unmarried."

A taxpayer who is married to a nonresident alien spouse may be able to file as Head of Household even if the taxpayer lived with the spouse for the year. Review the Unique Filing Situations lesson for more information.

Who is a Qualifying Widow(er)?

Taxpayers who do not remarry in the year their spouse dies can file jointly with the deceased spouse. For the two years following the year of death, the surviving spouse may be able to use the Qualifying Widow(er) filing status. To qualify, the taxpayer must:

- Be entitled to file a joint return for the year the spouse died, regardless of whether the taxpayer actually filed a joint return that year.
- Have had a spouse who died in either of the two prior years. The taxpayer must not remarry before the end of the current tax year.
- Have a child, stepchild, or adopted child who qualifies as the taxpayer's dependent for the year or would qualify as the taxpayer's dependent except that he or she does not meet the gross income test, or does not meet the joint return test, or except that the taxpayer may be claimed as a dependent of another taxpayer.
- Live with this child in the taxpayer's home all year, except for temporary absences.
- Have paid more than half the cost of keeping up the home for the year.

TIP A foster child does not qualify a taxpayer for the Qualifying Widow(er) filing status.

The standard deduction and tax tables are the same for Qualifying Widow(er) and Married Filing Jointly filing statuses. These are more favorable than those for Head of Household filing status.

example

Laura's spouse, Jim, died in September of the tax year. She has not remarried, and provides all the support for their dependent children, ages 8 and 10. Laura can file as Married Filing Jointly for this tax year. For the next two tax years, she can use the Qualifying Widow(er) status if she does not remarry.

How do I determine the correct filing status?

To determine the correct filing status, follow the Filing Status Interview Tips in the Volunteer Resource Guide, Tab B, Starting a Return and Filing Status. Be sure to complete the shaded dependent portion on the Intake/Interview and Quality Review Sheet.

EXERCISES (continued)

Check your understanding of each filing status. Review the lesson and use the Filing Status Interview Tips in the Volunteer Resource Guide to determine the answer. Answers are after the lesson summary.

Question 2: Jane's husband moved out of their home in February of the tax year and has not returned. Jane provides all the cost of keeping up the home for herself and her two dependent children. Jane refuses to file a joint return with her husband. What filing status should she use?

- Single
- Married Filing Separately
- Head of Household
- Qualifying Widow(er)

Question 3: Seth lives alone and has never married. He does not support either of his parents. What filing status(es) can he use?

- Single
- Married Filing Jointly
- Married Filing Separately
- Head of Household
- Qualifying Widow(er)

Question 4: Tanya's divorce became final in early September of the tax year. She has sole custody of her three children, who lived with her the entire year. The children are all under the age of 19. She provided more than half of the cost of keeping up the home. What filing status(es) can she use?

- Single
- Married Filing Jointly
- Married Filing Separately
- Head of Household
- Qualifying Widow(er)

Question 5: Sydney's spouse died two years ago in January. He filed a joint return for that year as the surviving spouse. Since then, Sydney has not remarried, maintains a home for his young children who lived with him all year, and provides their sole support. Using the Filing Status Interview Tips in the Volunteer Resource Guide, determine what filing status Sydney should use?

- Single
- Married Filing Jointly
- Married Filing Separately
- Head of Household
- Qualifying Widow(er)

Summary

This lesson covered the five filing statuses:

- Single
- Married Filing Jointly
- Married Filing Separately
- Head of Household
- Qualifying Widow(er)

If taxpayers qualify for more than one filing status, choose the one that results in a lower tax. For example, in most cases, married couples pay less tax if they file a joint return.

In general, the Head of Household filing status is for unmarried taxpayers who paid more than half the cost of maintaining a home for a qualifying person for the required period of time. However, some married taxpayers who lived apart from their spouse during the last six months of the year and provided for dependent children may be "considered unmarried" and qualify to file as Head of Household.

A widow or widower with one or more qualifying children may be able to use the Qualifying Widow(er) filing status, which is available for two years following the year of the spouse's death.

What situations are out of scope for the VITA/TCE programs?

The following are out of scope for this lesson. While this list may not be all inclusive, it is provided for your awareness only.

- A spouse who may be relieved of joint liability as an innocent spouse
- Depending on your tax assistance program, married taxpayers who wish to file a separate return from their spouse and are subject to community property tax laws
- Taxpayers who are not certain they are in a common law marriage (rules are complex and differ from state to state)

EXERCISE ANSWERS

Answer 1: *No, because Sebastian lived with Alexandra for five months, which is less than half the year.*

Answer 2: *Head of Household. Even though Jane is still married to her husband, she meets the requirements to be "considered unmarried" for filing status purposes and qualifies to file as Head of Household. Although technically she could file as Married Filing Separately, it would not be to her advantage to do so.*

Answer 3: *Because he is not married, has no dependents living in his household, and does not claim his parents as dependents, Seth can only file as Single.*

Answer 4: *Because she is legally divorced, Tanya could file as Single. However, because she has children and meets the requirements for Head of Household, she should use this as her filing status because it will result in a lower tax.*

Answer 5: *Although Sydney meets the requirements to file as Single, Head of Household or Qualifying Widower, the Interview Tips will help you to determine that he should use the Qualifying Widower filing status because it will result in the lowest tax.*