

## **Should You File Joint or Separate During A Divorce?**

By Tom Norton, CPA, CDFA

Your marital status for tax purposes is determined as of December 31. If you are married on December 31, you are considered married for the entire year, even if you're in the process of getting a divorce.

If your divorce is final on or before December 31, you are considered single for the entire year, even though you may have been married most of the year.

Many couples who are going through a divorce that is not final by December 31 wonder if they should file Married Joint or Married Separate. The answer? It depends.

Usually, filing Married Joint will result in a lower overall tax bill. The reason is because the tax rates are more favorable, and there are certain credits and deductions you cannot get if you file separately. There are exceptions, however, so the only way to know for sure is to prepare your return both ways, and see which results in the lower tax. Most tax software can do this easily.

But even if filing Joint does result in lower taxes, that doesn't mean you should automatically do it. If you and your spouse cannot get along well enough to sit in the same room together, you may opt to file Separate just to avoid the conflict. Similarly, if your spouse has disappeared, or you rarely hear from him or her, you may simply want to file Separate.

The other consideration is the possibility that your spouse is cheating on their taxes. If they are and you sign the joint return, the IRS can come after you for the money. You may be able to get relief from the "innocent spouse rules," but even that is far from guaranteed, and it will cost you hundreds or thousands of dollars in fees to hire a CPA or lawyer to help you.

So if you think your spouse is cheating on their taxes, you're probably better off filing Separate, even if it means you owe more in taxes right now.

Couples who can get along well enough to file Joint, and who don't suspect any dishonesty, will usually be better off filing a Joint return.

For more information:

[Tax Rates And Dollar Limitations](#)

[The Divorce Financial Survival Series](#)