

Filing Statuses under IRC § 2

1. Single (Unmarried)
2. Head of Household
3. Married, Filing Jointly
4. Married, Filing Separately

What You Need to Know

There are four filing statuses listed under § 2 of the Internal Revenue Code; each contains its own individual requirements. You must determine the correct filing status for your Federal Tax Return in order to comply with the Internal Revenue Code and reflect an accurate tax liability, as each filing status uniquely affects the calculations made on your Federal Tax Return. This pamphlet describes each status and its requirements in order to help you choose the appropriate status for filing your Return.

The Washington and Lee University Tax Clinic is a free legal clinic at the University's School of Law. We provide income-eligible taxpayers legal assistance with tax controversies.

Under the supervision of the University's Clinic Director, our students help clients resolve tax problems and disputes with the IRS and Virginia Department of Taxation.

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Determining the Correct Filing Status for Individual Income Tax

A Guide to Filing Statuses and Avoiding Confusion

Married, Filing Jointly

- A husband and wife may elect to file a **joint return** even though one spouse has no income or deductions and even though they are not living in the same household, but only if:
- Their tax years begin on the same date,
- They are not legally separated under a decree of divorce or separate maintenance on the last day of the tax year; and
- Neither is a nonresident alien at any time during the year.
- Joint liability attaches to both spouses

Married, Filing Separately

- Typically, less advantageous than Married Filing Jointly
- Taxpayers who file Married Filing Separately who later discover that a Joint return would have been more advantageous may be able to amend their filing to a joint return under IRC § 6013(b)(1), but certain limitations apply.
- Good option for taxpayers who are married but do not wish to incur joint liability

Single (Unmarried)

- Individuals who are not considered as married must file Single unless Head of Household is available (see below)
- For tax purposes, if you are not married on the **last day** of the Tax Year, then you may not file as Married Jointly or Separately
- Example: If a taxpayer is married on December 31, 2016, he may file as Married--if he is married on Jan. 1, 2017, he must file Single (or Head of Household if eligible) for 2016.

Head of Household (HOH)

- Taxpayer must be unmarried on the last day of the tax year, or else taxpayer's spouse must have moved out of the household for over 6 months of that year.
- Taxpayer must have paid more than half the cost of "maintaining a home" for the tax year.
- A "qualifying person" must have lived with the taxpayer for over half of the tax year, such as taxpayer's children, stepchildren, grandchildren, or descendants of those, or certain other relatives.

HOH: Frequently Asked Questions

Q: I don't know the Tax Code... How do I know if I have a qualifying child?

A: A "qualifying child" under § 152 is one who (1) meets the relationship test (generally a child, brother, sister, stepbrother, stepsister, or descendant of such), (2) did not provide over half of their own financial support for the tax year, (3) is under the age of 19 at the beginning of the tax year, or 24 if the child is a student, (4) lives with the taxpayer for at least half the tax year, and (5) has not filed a joint return for that tax year.

Q: How do I know if I'm considered "married" under the Code?

A: If your spouse is deceased or you are legally divorced or separated at the end of the taxable year. Additionally, if you maintain a household for over half the year, provide support to a qualifying child, and your spouse was not a member of that household for the last 6 months of the year, you may file as Head of Household.