§5221. Joint returns by spouses

1. General. Spouses may make a joint return with respect to the tax imposed by this Part even though one of the spouses has neither gross income nor deductions except that:

A. A joint return may not be made under this Part if the spouses are not permitted to file a joint federal income tax return; [PL 2021, c. 253, Pt. A, §8 (AMD).]

B. If the federal income tax liability of either spouse is determined on a separate federal return, their income tax liabilities under this Part must be determined on separate returns; [PL 2021, c. 253, Pt. A, §8 (AMD).]

C. Except as provided in subsection 2, if the federal income tax liabilities of the spouses are determined on a joint federal return, they shall file a joint return under this Part and their tax liabilities are joint and several; and [PL 2021, c. 253, Pt. A, §8 (AMD).]

D. If neither spouse is required to file a federal income tax return and either or both are required to file an income tax return under this Part, they may elect to file separate or joint returns and pursuant to such election their liabilities are separate or joint and several. [PL 2021, c. 253, Pt. A, §8 (AMD).]

[PL 2021, c. 253, Pt. A, §8 (AMD).]

2. Nonresidents. If both spouses are nonresidents and one has no Maine-source income, the spouse having Maine-source income shall file a separate Maine nonresident income tax return, as a single individual, in which event the spouse's tax liability is separate; but they may elect to determine their joint taxable income as nonresidents, in which case their liabilities are joint and several.

If one spouse is a resident and the other is a nonresident, they shall file separate Maine income tax returns as single individuals, in which event their tax liabilities are separate; but they may elect to determine their joint taxable income as if both were residents and, in that case, their liabilities are joint and several.

[PL 2021, c. 253, Pt. A, §8 (AMD).]

SECTION HISTORY

P&SL 1969, c. 154, §F1 (NEW). PL 1985, c. 783, §§39,40 (AMD). PL 2021, c. 253, Pt. A, §8 (AMD).

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