

# Chapter 617

## (House Bill 380)

AN ACT concerning

### Income Tax – Joint Returns – Married Couples

FOR the purpose of establishing a presumption, for a certain purpose, that a married couple who does not file a joint federal income tax return or married filing separate federal income tax return has filed a certain federal income tax return; authorizing certain married individuals who meet certain requirements to use the head of household filing status for a certain purpose; requiring, except under certain circumstances, a married couple who files a joint federal income tax return to file a joint Maryland income tax return; making a technical correction; ~~authorizing a married couple who does not file a joint federal income tax return to file a joint Maryland income tax return;~~ providing for the application of this Act; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to filing income tax returns.

BY repealing and reenacting, with amendments,  
 Article – Tax – General  
 Section 10-105(c) and 10-807  
 Annotated Code of Maryland  
 (2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

### Article – Tax – General

#### 10-105.

*(c) For a [husband and wife] **MARRIED COUPLE** filing a joint income tax return, the rates specified in subsection (a) of this section apply to the joint Maryland taxable income of the [husband and wife] **MARRIED COUPLE**.*

#### 10-807.

**(A) (1) ~~A~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A MARRIED COUPLE WHO DOES NOT FILE A JOINT FEDERAL INCOME TAX RETURN OR MARRIED FILING SEPARATE FEDERAL INCOME TAX RETURN IS PRESUMED, FOR THE PURPOSE OF FILING A MARYLAND INCOME TAX RETURN, TO HAVE**

**FILED A JOINT FEDERAL INCOME TAX RETURN OR MARRIED FILING SEPARATE FEDERAL INCOME TAX RETURN.**

**(2) A MARRIED INDIVIDUAL WHO MEETS THE REQUIREMENTS FOR HEAD OF HOUSEHOLD FILING STATUS UNDER § 2(B) AND (C) OF THE INTERNAL REVENUE CODE MAY USE THAT FILING STATUS FOR THE PURPOSE OF FILING A MARYLAND INCOME TAX RETURN.**

~~(a)~~ ~~(1)~~ **(B)** Except as provided in subsection ~~(b)~~ **(C)** of this section, a [husband and wife] **MARRIED COUPLE** who [file] **FILES** a joint federal income tax return shall file a joint Maryland income tax return.

~~(2) A MARRIED COUPLE WHO DOES NOT FILE A JOINT FEDERAL INCOME TAX RETURN MAY FILE A JOINT MARYLAND INCOME TAX RETURN.~~

~~(b)~~ **(C)** A [husband and wife] **MARRIED COUPLE** who [file] **FILES** a joint federal income tax return may file separate State income tax returns if:

- (1) one spouse is a resident and the other spouse is a nonresident;
- (2) the spouses are domiciled, or maintain principal places of abode, in different counties on the last day of the taxable year;
- (3) the spouses have different taxable periods; or
- (4) the Comptroller determines circumstances warrant.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

**Article – Tax – General**

10–807.

(a) Except as provided in subsection (b) of this section, a [husband and wife] MARRIED COUPLE who [file] FILES a joint federal income tax return shall file a joint Maryland income tax return.

(b) A [husband and wife] MARRIED COUPLE who [file] FILES a joint federal income tax return may file separate State income tax returns if:

- (1) one spouse is a resident and the other spouse is a nonresident;
- (2) the spouses are domiciled, or maintain principal places of abode, in different counties on the last day of the taxable year;

- (3) the spouses have different taxable periods; or
- (4) the Comptroller determines circumstances warrant.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the recognition by the federal government of same-sex marriage for purposes of the federal income tax. Within 5 days after the federal government recognizes same-sex marriage for purposes of the federal income tax, the Office of the Comptroller shall notify the Department of Legislative Services. If Section 2 of this Act takes effect, Section 1 of this Act shall be abrogated and of no further force and effect.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act, this Act shall take effect July 1, 2013, and shall be applicable to all taxable years beginning after December 31, 2012.

**Approved by the Governor, May 16, 2013.**