

HOUSE BILL 380

Q3

(3lr1233)

ENROLLED BILL

— *Ways and Means/Budget and Taxation* —

Introduced by **Delegates Barve, Anderson, Barnes, Bohanan, Bromwell, Cardin, Carter, Clagett, Clippinger, Costa, Cullison, Davis, Dumais, Feldman, Frick, Frush, Gaines, Gilchrist, Gutierrez, Guzzone, Hammen, Haynes, Hixson, Hubbard, Ivey, Jones, Kach, Kaiser, A. Kelly, Kramer, Lafferty, Lee, Luedtke, Malone, McHale, McIntosh, A. Miller, Mitchell, Mizeur, Morhaim, Murphy, Nathan-Pulliam, Oaks, Olszewski, Pena-Melnyk, Pendergrass, S. Robinson, Rosenberg, Simmons, Summers, F. Turner, Valderrama, Waldstreicher, M. Washington, ~~and Zucker~~ Zucker, and McMillan**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Income Tax – Joint Returns – Married Couples**

3 FOR the purpose of establishing a presumption, for a certain purpose, that a married
4 couple who does not file a joint federal income tax return or married filing
5 separate federal income tax return has filed a certain federal income tax return;
6 authorizing certain married individuals who meet certain requirements to use
7 the head of household filing status for a certain purpose; requiring, except under

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 certain circumstances, a married couple who files a joint federal income tax
 2 return to file a joint Maryland income tax return; *making a technical correction;*
 3 ~~authorizing a married couple who does not file a joint federal income tax return~~
 4 ~~to file a joint Maryland income tax return;~~ providing for the application of this
 5 Act; providing for the effective date of certain provisions of this Act; providing
 6 for the termination of certain provisions of this Act; and generally relating to
 7 filing income tax returns.

8 BY repealing and reenacting, with amendments,
 9 Article – Tax – General
 10 Section 10-105(c) and 10-807
 11 Annotated Code of Maryland
 12 (2010 Replacement Volume and 2012 Supplement)

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

15 **Article – Tax – General**

16 10-105.

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

20 10-807.

21 (A) (1) ~~A~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A
 22 MARRIED COUPLE WHO DOES NOT FILE A JOINT FEDERAL INCOME TAX RETURN
 23 OR MARRIED FILING SEPARATE FEDERAL INCOME TAX RETURN IS PRESUMED,
 24 FOR THE PURPOSE OF FILING A MARYLAND INCOME TAX RETURN, TO HAVE
 25 FILED A JOINT FEDERAL INCOME TAX RETURN OR MARRIED FILING SEPARATE
 26 FEDERAL INCOME TAX RETURN.

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

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

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

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

3 (1) one spouse is a resident and the other spouse is a nonresident;

4 (2) the spouses are domiciled, or maintain principal places of abode, in
5 different counties on the last day of the taxable year;

6 (3) the spouses have different taxable periods; or

7 (4) the Comptroller determines circumstances warrant.

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

10 **Article – Tax – General**

11 10–807.

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

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

17 (1) one spouse is a resident and the other spouse is a nonresident;

18 (2) the spouses are domiciled, or maintain principal places of abode, in
19 different counties on the last day of the taxable year;

20 (3) the spouses have different taxable periods; or

21 (4) the Comptroller determines circumstances warrant.

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.