

HOUSE BILL 380

Q3

3lr1233

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

Introduced and read first time: January 25, 2013

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 17, 2013

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 requiring, except under certain circumstances, a married couple who files a joint
7 federal income tax return to file a joint Maryland income tax return;
8 ~~authorizing a married couple who does not file a joint federal income tax return~~
9 ~~to file a joint Maryland income tax return;~~ providing for the application of this
10 Act; providing for the effective date of certain provisions of this Act; providing
11 for the termination of certain provisions of this Act; and generally relating to
12 filing income tax returns.

13 BY repealing and reenacting, with amendments,

14 Article – Tax – General

15 Section 10–807

16 Annotated Code of Maryland

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.



(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

10–807.

(A) 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.

~~(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.

1 (b) A [husband and wife] MARRIED COUPLE who [file] FILES a joint federal
2 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 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
9 take effect on the recognition by the federal government of same-sex marriage for
10 purposes of the federal income tax. Within 5 days after the federal government
11 recognizes same-sex marriage for purposes of the federal income tax, the Office of the
12 Comptroller shall notify the Department of Legislative Services. If Section 2 of this Act
13 takes effect, Section 1 of this Act shall be abrogated and of no further force and effect.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.