

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 953 Session of
2009

INTRODUCED BY TOMLINSON, WARD, KITCHEN, FONTANA, WASHINGTON,
RAFFERTY, ALLOWAY, MUSTO, ERICKSON, O'PAKE, WAUGH, FOLMER,
BOSCOLA, ORIE, TARTAGLIONE, GREENLEAF, STACK, COSTA, EARLL,
SMUCKER, FARNESE AND ROBBINS, JUNE 11, 2009

SENATOR BROWNE, FINANCE, AS AMENDED, JULY 15, 2009

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," further providing for income tax returns.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 331(e) of the act of March 4, 1971
14 (P.L.6, No.2), known as the Tax Reform Code of 1971, added
15 August 31, 1971 (P.L.362, No.93), is amended and the section is
16 amended by adding ~~a subsection~~ SUBSECTIONS to read: ←

17 Section 331. Returns of Married Individuals, Deceased or
18 Disabled Individuals and Fiduciaries.--* * *

19 (e) [The] Except as provided in subsection (e.1), the UNDER ←
20 SUBSECTIONS (E.1) AND (E.2), THE FINAL return for any deceased
21 individual shall be made and filed by his executor,

1 administrator, or other [person] PERSONAL REPRESENTATIVE charged
2 with his property.

3 (e.1) (1) A surviving spouse may file a joint return for
4 the year in which his or her spouse died if a THE joint return
5 could have been filed if both spouses were living for the entire
6 taxable year.

7 (2) IF A PERSONAL REPRESENTATIVE, EXECUTOR OR ADMINISTRATOR
8 IS APPOINTED ON BEHALF OF THE DECEASED SPOUSE BEFORE THE TAX
9 RETURN IS FILED, THE SURVIVING SPOUSE MAY NOT FILE A JOINT
10 RETURN WITHOUT THE CONSENT OF THE FIDUCIARY. BOTH THE FIDUCIARY
11 AND THE SURVIVING SPOUSE MUST SIGN THE JOINT RETURN. THE
12 SURVIVING SPOUSE MAY FILE A JOINT RETURN WITH THE DECEASED
13 SPOUSE WITHOUT THE CONSENT OF A FIDUCIARY IF THE DECEASED SPOUSE
14 DID NOT PREVIOUSLY FILE A RETURN FOR THAT TAXABLE YEAR AND IF A
15 PERSONAL REPRESENTATIVE, EXECUTOR OR ADMINISTRATOR HAS NOT BEEN
16 APPOINTED BY THE TIME THE JOINT RETURN IS MADE OR BEFORE THE DUE
17 DATE FOR FILING THE RETURN OF THE SURVIVING SPOUSE, INCLUDING
18 EXTENSIONS. IF THE SURVIVING SPOUSE PROPERLY FILES A JOINT
19 RETURN UNDER THIS PARAGRAPH, THE FIDUCIARY MAY DISAFFIRM THE
20 JOINT RETURN BY FILING A SEPARATE RETURN FOR THE DECEDENT WITHIN
21 ONE YEAR AFTER THE DUE DATE, INCLUDING EXTENSIONS. ANY JOINT
22 RETURN IMPROPERLY FILED BY THE SURVIVING SPOUSE OR DISAFFIRMED
23 BY THE FIDUCIARY SHALL BE TREATED AS A SEPARATE RETURN OF THE
24 SURVIVOR.

25 (E.2) IF BOTH TAXPAYERS DIE DURING THE SAME TAX YEAR, A
26 JOINT FINAL RETURN MAY BE FILED IF A JOINT RETURN COULD HAVE
27 BEEN FILED HAD BOTH SPOUSES LIVED FOR THE ENTIRE TAXABLE YEAR
28 AND WITH THE CONSENT OF THE PERSONAL REPRESENTATIVES, EXECUTORS
29 OR ADMINISTRATORS OF BOTH DECEASED SPOUSES UNDER SUBSECTION
30 (E.1) BY THE DUE DATE, INCLUDING EXTENSIONS, OF THE JOINT TAX

1 RETURN. BOTH FIDUCIARIES MUST SIGN THE JOINT RETURN.

2 * * *

3 Section 2. This act shall take effect in 60 days.