

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.**

Senate Bill 953

**PRINTER'S NO.**

1311

**AMOUNT**

Minimal cost to the Commonwealth

**FUND**

General

**DATE INTRODUCED**

June 11, 2009

**PRIME SPONSOR**

Senator Tomlinson

**HISTORY OF BILL**

Referred to FINANCE, June 11, 2009

Reported as amended, July 15, 2009

First consideration, July 15, 2009

Re-referred to APPROPRIATIONS, July 16, 2009

Re-reported as committed, September 9, 2009

**DESCRIPTION AND PURPOSE OF BILL**

Senate Bill 953 amends section 331 of the Act of Mar. 4, 1971, P.L. 6, No. 2 (Tax Reform Code of 1971) further providing for income tax returns. New subsection (e.1)(1) provides that a surviving spouse may file a joint return for the year in which his or her spouse died if the joint return could have been filed if both spouses were living for the entire taxable year.

New subsection (e.1)(2) provides that, in cases where a personal representative, executor or administrator is appointed on behalf of the deceased spouse before the tax return is filed, the surviving spouse may not file a joint return without the consent of the fiduciary. Furthermore, the surviving spouse may file a joint return with the deceased spouse without the consent of the fiduciary if the deceased spouse did not previously file a return for that taxable year and if a personal representative, executor or administrator has not been appointed by the time the joint return is made of before the due date for filing the return of the surviving spouse, including extensions. If the surviving spouse properly files a joint return, the fiduciary may disaffirm the joint return by filing a separate return for the decedent

## **SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE**

within one year after the due date, including extensions. Any joint return improperly filed by the surviving spouse or disaffirmed by the fiduciary shall be treated as a separate return of the survivor.

New subsection (e.2) provides that if both taxpayers die during the same tax year, a joint final return may be filed if a joint return could have been filed had both spouses lived for the entire taxable year and with the consent of the personal representatives, executors or administrators of both deceased spouses under subsection (e.1) by the due date, including extensions, of the joint tax return.

Under current law, joint returns between a surviving spouse and a deceased spouse are not permitted. If the deceased was married at the time of death, the surviving spouse must file a separate return as "single" unless he or she remarries before the end of the taxable year. Jointly owned income, such as interest, must be apportioned between the decedent and the survivor from the beginning of the tax year to date of death. After the date of death, all taxable income derived from jointly held property is attributed to the surviving owner.

This act shall take effect in 60 days.

### **FISCAL IMPACT:**

Enactment of this legislation will have minimal costs to the Commonwealth. Senate Bill 953 affects the procedures involved in filing a final tax return where one or both spouses die during the tax year. However, the legislation will have little effect on the aggregate amount of personal income tax owed by taxpayers in these situations.