

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 665 Session of 2011

INTRODUCED BY REICHLEY, CALTAGIRONE, CARROLL, EVERETT, FLECK, GEIST, GOODMAN, GRELL, HARHART, HESS, HORNAMAN, KILLION, LONGIETTI, MANN, MARSICO, MILNE, O'NEILL, PETRI, READSHAW, SWANGER, VULAKOVICH, WAGNER AND WATSON, FEBRUARY 14, 2011

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 14, 2011

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 subsections to read:

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

19 (e) [The] Except as provided under subsections (e.1) and
 20 (e.2), the final return for any deceased individual shall be
 21 made and filed by his executor, administrator, or other [person]

1 personal representative charged with his property.

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

6 (2) If a personal representative, executor or administrator
7 is appointed on behalf of the deceased spouse before the tax
8 return is filed, the surviving spouse may not file a joint
9 return without the consent of the fiduciary. Both the fiduciary
10 and the surviving spouse must sign the joint return. The
11 surviving spouse may file a joint return with the deceased
12 spouse if the deceased spouse did not previously file a return
13 for that taxable year and if a personal representative, executor
14 or administrator has not been appointed by the time the joint
15 return is made or before the due date for filing the return of
16 the surviving spouse, including extensions. If the surviving
17 spouse properly files a joint return under this paragraph, the
18 fiduciary may supersede the surviving spouse by filing a
19 separate return for the decedent within one year after the due
20 date, including extensions. Any joint return improperly filed by
21 the surviving spouse or disaffirmed by the fiduciary shall be
22 treated as a separate return of the survivor. The surviving
23 spouse shall be required to file an amended return.

24 (e.2) If both taxpayers die during the same tax year, a
25 joint final return may be filed if a joint return could have
26 been filed had both spouses lived for the entire taxable year
27 and with the consent of the personal representatives, executors
28 or administrators of both deceased spouses under subsection
29 (e.1) by the due date, including extensions, of the joint tax
30 return. Both fiduciaries must sign the joint return.

1 * * *

2 Section 2. This act shall apply to taxable years beginning
3 after December 31, 2009.

4 Section 3. This act shall take effect immediately.