

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 318 Session of 2011

INTRODUCED BY TOMLINSON, SCARNATI, PILEGGI, COSTA, KITCHEN,  
VOGEL, ERICKSON, FOLMER, ORIE, FONTANA, ROBBINS, BOSCOLA,  
BAKER, STACK, EARLL, RAFFERTY, SOLOBAY, TARTAGLIONE,  
M. WHITE, GREENLEAF, MENSCH, WARD, BREWSTER, ALLOWAY,  
BRUBAKER AND WAUGH, JANUARY 28, 2011

REFERRED TO FINANCE, JANUARY 28, 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14 (P.L.6, No.2), known as the Tax Reform Code of 1971, repealed  
15 and added August 31, 1971 (P.L.362, No.93), is amended and the  
16 section is 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

made and filed by his executor, administrator, or other [person]  
personal representative charged with his property.

(e.1) (1) 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.

(2) If 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. Both the fiduciary  
and the surviving spouse must sign the joint return. The  
surviving spouse may file a joint return with the deceased  
spouse 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 or before the due date for filing the return of  
the surviving spouse, including extensions. If the surviving  
spouse properly files a joint return under this paragraph, the  
fiduciary may supersede the surviving spouse by filing a  
separate return for the decedent 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. The surviving  
spouse shall be required to file an amended return.

(e.2) 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

1 return. Both fiduciaries must sign the joint return.

2 \* \* \*

3 Section 2. This act shall apply to taxable years beginning  
4 after December 31, 2011.

5 Section 3. This act shall take effect immediately.