O'NEIL & STEINER, PLLC
MARRIED FILING JOINT VS. SEPARATELY INFORMATION SHEET

Most married couples will save money by using the Married Filing Joint filing status. The cost to have returns prepared typically is increased when filing separately as well. However, your filing status should be carefully considered based on your specific facts & circumstances. The following are items that should be carefully considered when comparing your options:

1. Filing Status Issues: The rules regarding filing status options are detailed and can lead to costly penalties and interest charges. Common mistakes we see on tax returns filed elsewhere for legally married taxpayers include the following:

    a. File two separate returns using Single and/or Head of Household filing status. In order to file using either of these two statuses you must not be considered legally married as of December 31st of the year for which you are filing. This means that one of the following must be true as of December 31st:
        i. You were never married.
        ii. You were legally separated according to your state law under a decree of divorce or separate maintenance. If the divorce was not final, you are still considered married.
        iii. You were widowed prior to January 1st and did not qualify as a Surviving Spouse.

    b. File two separate returns using Married Filing Separately filing status, but each spouse reported their own income, deduction, and credit items on their own returns. This is acceptable in some states, but not in Community Property states like Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin. Income earned and assets purchased by one or more married person in community property states are considered owned 50% by each spouse. Married Filing Separately filers in these states must each report ½ of their own income, deductions, and credits and ½ of their spouse's income, deductions, and credits on their separate returns. Doing so greatly reduces the potential to save when one spouse has much higher income than the other.

    c. On separate returns one spouse claims their standard deduction and the other itemizes. Married taxpayers filing separate returns must either both claim their standard deductions, or both itemize.

2. Loss of Tax Benefits: Higher tax brackets are reached faster than if filing joint. In addition, the following tax benefits are typically unavailable if filing separately:
    a. Earned Income Tax Credit
    b. Child and dependent care credit
    c. Student loan interest deduction
    d. Adoption credit
    e. American Opportunity Credit & Lifetime Learning Credit
    f. Credit for the elderly or disabled
    g. Deduction for losses from rental real estate
    h. Larger portions of Social Security and Railroad Retirement Benefits may be considered taxable.

3. Reasons to file separately:
    a. One spouse owes taxes, child support, alimony or defaulted on student loans (joint refund may be garnished).
    b. Taxes are owed and one spouse does not agree to be financially responsible.
    c. Spouses maintain separate finances and prefer to keep their taxes separate.
    d. When spouses are considering, or in the midst of, divorce/separation filing separately is a common consideration.

4. In limited circumstances, one spouse may benefit from filing separately under the Head of Household filing status. The rules in these cases are incredibly detailed and should be discussed with a tax professional prior to filing your returns to avoid costly filing of amended returns, penalties, and interest charges. The following requirements must be met to consider this option:
    a. You paid more than half the cost of keeping up your home for the tax year.
    b. Your spouse did not live in your home during the last 6 months of the tax year. Your spouse is considered to live in your home even if your spouse is temporarily absent due to special circumstances.
    c. Your home was the main home of your child, stepchild, or foster child for more than half the year.
    d. You must be able to claim the child as a dependent. However, you meet this test if you cannot claim the child as a dependent only because the noncustodial parent can claim the child.