

Important Change

*The Civil Union Act (P.L. 2006, c.103) established civil unions in New Jersey for couples of the same sex. Effective for tax years beginning on or after January 1, 2007, partners to a civil union recognized under New Jersey law **must file** their New Jersey income tax returns using the same filing statuses accorded spouses under New Jersey Gross Income Tax Law. Partners to a civil union may not use the filing status single even though they do so for Federal income tax purposes. Any reference in this bulletin to a spouse also refers to a partner to a civil union (CU) recognized under New Jersey law.*

Introduction

If you file a Federal income tax return, you must use the same filing status on your New Jersey income tax return as you do on your Federal return, unless you are a partner in a civil union. There are five filing statuses: single; married/CU couple, filing joint return; married/CU partner, filing separate return; head of household; and qualifying widow(er)/surviving CU partner. In general, the guidelines for determining your filing status follow Federal rules.

Married couples filing a joint Federal return must file a joint New Jersey return in most cases. Spouses who file married, filing separate for Federal purposes must file married/CU partner, filing separate for New Jersey. If you do not file a Federal return, but you are filing a New Jersey return, use the same filing status that you would have used if you had filed a Federal return. If you are a civil union couple, your filing status for New Jersey will not match your Federal filing status for the year. A description of each filing status follows.

Single

Your filing status is **single** if you are unmarried or not a partner in a civil union (or legally separated from your spouse/civil union partner under a decree of divorce/dissolution) on the last day of the tax year and you do not qualify for head of household or qualifying widow(er)/surviving CU partner status (see page 3).

Married/CU Couple, Filing Joint Return

You may file **married/CU couple, filing joint return** if you are married or a partner in a civil union on the last day of the tax year, and you and your spouse/civil union partner both agree to file a joint return. You may file a joint return whether or not you lived together in the same residence. You may also file a joint return if you and your spouse/civil union partner have filed for divorce/dissolution, but the final decree was not granted by the last day of the tax year.

If your spouse/civil union partner died during the year, you are considered married or a partner in a civil union for that entire year for filing status purposes. If you did not remarry or enter into a new civil union before the end of the year, you may file a joint return for yourself and your deceased spouse/civil union partner. You may also be eligible, for the next two years, to file as a qualifying widow(er)/surviving CU partner. See *Qualifying Widow(er)/Surviving CU Partner* on page 3. Unless you remarry or enter into a new civil union, your filing status for subsequent

years will be single, head of household, or qualifying widow(er)/surviving CU partner, as appropriate.

If you remarried or entered into a new civil union before the last day of the tax year in which your spouse/civil union partner died, you may file a joint return with your new spouse/civil union partner. Your deceased spouse's/civil union partner's filing status is married/CU partner, filing separate return for that year.

If you are divorced or your civil union has been dissolved under a final decree by the last day of the year, you are considered unmarried or not a partner in a civil union for the whole year.

NOTE: If you were a member of a domestic partnership registered in New Jersey, you are not considered to be married or a partner in a civil union and you may not use the filing statuses "Married/CU couple, filing joint return" or "Married/CU partner, filing separate return."

Married/CU Partner, Filing Separate Return

You may choose **married/CU partner, filing separate return** as your filing status if you are married or a partner in a civil union. This method may benefit you if you want to be responsible only for your own tax or if this method results in less tax than a joint return. If you and your spouse/civil union partner do not agree to file a joint return, you may have to use this filing status. **Remember, if you filed a Federal return, you must use the same filing status on both your Federal and New Jersey returns, unless you are a partner in a civil union.** However, if during the entire taxable year one spouse/civil

union partner was a resident of New Jersey and the other a nonresident, the resident may file a separate New Jersey return, if required. The nonresident spouse/civil union partner may also have to file a nonresident return if income was received from a New Jersey source. Each filer computes income and exemptions as if Federal married, filing separate returns had been filed. The spouses/civil union partners have the option of filing a joint return, in which case their joint income would be taxed as if both were residents.

If both you and your spouse/civil union partner were nonresidents of New Jersey during the entire taxable year, and only one of you earned, received, or acquired income from New Jersey sources, the spouse/civil union partner who had income from New Jersey sources may file a separate New Jersey return (Form NJ-1040NR), even if you filed a joint Federal return. You have the option of filing a joint return, but if you do, joint income must be shown on your nonresident return.

NOTE: If you were a member of a domestic partnership registered in New Jersey, you are not considered to be married or a partner in a civil union and you may not use the filing statuses "Married/CU couple, filing joint return" or "Married/CU partner, filing separate return."

Head of Household

Your filing status is **head of household** if you are unmarried or not a partner in a civil union on the last day of the tax year and you pay more than half the cost of keeping up a home for yourself and a dependent. Certain married individuals/civil union partners living apart may file as

head of household for New Jersey if they meet the requirements to file as head of household for Federal purposes.

You are considered unmarried or not a partner in a civil union on the last day of the tax year only if you:

- Were never married/in a civil union;
- Have been divorced or your civil union has been dissolved through a court decree or judgment of divorce/dissolution; or
- Are no longer eligible to file as a qualifying widow(er)/surviving CU partner and have not remarried or entered into a new civil union.

To be eligible to file as head of household, you must have paid more than half the cost of keeping up a home that was the main home for more than half the year for yourself and any of the following:

- Your child, grandchild, stepchild, or adopted child. If the child is single, the child does not have to be your dependent. However, a foster child must be your dependent. In general, if the child is married or a partner in a civil union, the child must be your dependent.
- Any relative listed below whom you claim as a dependent.

Parent*	Mother-in-law
Grandparent	Brother-in-law
Brother	Sister-in-law
Sister	Son-in-law
Half brother	Daughter-in-law
Half sister	
Stepbrother	If related by blood:
Stepsister	Uncle
Stepfather	Aunt
Stepmother	Nephew
Father-in-law	Niece

*Your dependent parent does not have to live with you. However, you must pay more than half the cost of keeping up a home that was the main home for the entire year for your mother or father. You are keeping up a main home for your dependent father or mother if you pay more than half the cost of keeping your parent in a rest home or home for the elderly.

NOTE: A dependent can qualify only one taxpayer to use the head of household filing status for any tax year.

Death or Birth. If the dependent who qualifies you to use head of household filing status is born or dies during the year, you still may be able to claim that filing status. You must have provided more than half the cost of keeping up a home that was the dependent's main home for more than half the year or, if less, the period during which your dependent lived.

Nonresident alien. A nonresident alien who meets the above requirements qualifies to file as head of household on their New Jersey return, although unable to do so for Federal purposes.

Qualifying Widow(er)/ Surviving CU Partner

If your spouse/civil union partner died during the year, you may file married/CU couple, filing joint return if you would otherwise qualify. See *Married/CU Couple, Filing Joint Return* on page 1.

You may be eligible to file as a **qualifying widow(er)/surviving CU partner** for each of the two tax years after the year in which your spouse/civil union partner died if you meet all of the following tests:

1. You were eligible to file a joint return with your spouse/civil union partner for the year your spouse/civil union partner died (it does not matter whether you actually filed a joint return).
2. You did not remarry or enter into a new civil union before the last day of the tax year.
3. You have a child, stepchild, adopted child, or foster child who qualifies as your dependent for the year.

4. You paid more than half the cost of keeping up a home that is the main home for you and that child for the entire year except for temporary absences (illness, vacation, school, military service, etc.).

If you are not eligible to file as qualifying widow(er)/surviving CU partner, you may be able to file as head of household. See *Head of Household* on page 2.

For More Information

By Phone

- Call the Division of Taxation's Customer Service Center at **609-292-6400**.
- Text Telephone Service (TTY/TDD) for Hard-of-Hearing Users: **1-800-286-6613** (toll-free within NJ, NY, PA, DE, and MD) or **609-984-7300**. These numbers are accessible *only* from TTY devices. Submit a text message on any tax matter and receive a reply through NJ Relay Services (711).

Online

- Division of Taxation Web site: www.state.nj.us/treasury/taxation/
- E-mail: nj.taxation@treas.state.nj.us
- Subscribe to *NJ Tax E-News*, the Division of Taxation's online information service, at: www.state.nj.us/treasury/taxation/listservservice.shtml

In Writing

New Jersey Division of Taxation
Information and Publications Branch
PO Box 281
Trenton, NJ 08695-0281

Order Forms and Publications

- Call the Forms Request System at **1-800-323-4400** (within NJ, NY, PA, DE, and MD) or **609-826-4400**. Touch-tone phones only.
- Call NJ TaxFax at **609-826-4500** from your fax machine's phone.
- Visit the Division of Taxation's Web site: www.state.nj.us/treasury/taxation/