



## **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. In general, the guidelines for determining your filing status follow federal rules.

This document is designed to provide guidance to taxpayers and is accurate as of the date issued. Subsequent changes in tax law or its interpretation may affect the accuracy of this publication.

## **General Information**

*Married couples* filing a joint federal return must file a joint New Jersey return in most cases. Spouses who are married, filing separate for federal purposes, must be a married/CU partner, filing separate for New Jersey. If you do not file a federal return, but you are filing a New Jersey return, please use the same filing status that you would have used for a federal return.

*Civil Unions.* If you are a civil union couple, your filing status for New Jersey may not match your federal filing status for the year. Partners in a civil union recognized under New Jersey law **must file** their New Jersey Income Tax returns using the same filing statuses accorded spouses under the New Jersey Gross Income Tax Act. Partners in a civil union cannot use the filing status **single** even if they do so for federal income tax purposes.

Any reference in this bulletin to a spouse also refers to a partner in a [civil union \(CU\)](#) recognized under New Jersey law as well as a spouse who entered into a valid same-sex marriage in another state or foreign nation.

## **Single**

Your filing status is **single** under certain conditions:

- If you are unmarried or not a partner in a civil union (or legally separated from your spouse 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.

## **Married/CU Couple, Filing Joint Return**

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

If, unfortunately, your spouse 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 can file a joint return for yourself and your deceased spouse. You also may be eligible, for the next two years, to file as a qualifying widow(er)/surviving CU partner. [See \*Qualifying Widow\(er\)/Surviving CU Partner\*](#). 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 died, you can file a joint return with your new spouse. The filing status of your deceased spouse is married/CU partner, and the executor of that spouse's estate may file a separate return for that year. (Refer to the [Taxpayer Guide on being an Executor](#) in New Jersey.)

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

## **Married/CU Partner, Filing Separate Return**

You may choose **married/CU partner, filing separate return** as your 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 obligation or if this method results in less tax than a joint return. If you and your spouse 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 tax year one spouse was a resident of New Jersey and the other a nonresident, the resident can file a separate New Jersey return, if required. The nonresident spouse also may have to file a nonresident return if income was received from a New Jersey source. Each filer calculates income and exemptions as if federal married, filing separate returns had been filed. The spouses 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 were nonresidents of New Jersey during the entire tax year, and only one of you earned, received, or acquired income from New Jersey sources, the spouse who had income from New Jersey sources can file a separate New Jersey nonresident 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.

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## **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 qualifying person. Certain married individuals/civil union partners living apart can 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 residence for more than half the year for yourself and any of the following:

- A qualifying child\* (such as a son, daughter, or grandchild). If the child is single, the child does not have to be your dependent. In general, if the child is married or a partner in a civil union, you must be able to claim the child as your dependent;
- A qualifying relative\* who is your father or mother and whom you can claim as a dependent. 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 residence 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;
- A qualifying relative\* other than your father or mother (such as a grandparent, brother, sister, etc.) who lived with you more than half the year and whom you can claim as a dependent.

\*For information about who is considered a qualifying child or qualifying relative see [IRS Publication 501](#).

**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 his/her New Jersey return, although unable to do so for federal purposes.

## **Qualifying Widow(er)/Surviving CU Partner**

If your spouse died during the year, your status can be married/CU couple, filing joint return if you would otherwise qualify. See [Married/CU Couple, Filing Joint Return](#). 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 died if you meet all of the following tests:

1. You were eligible to file a joint return with your spouse for the year your spouse 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 or stepchild who qualifies as your dependent for the year. This does not include a foster child;
4. This child lived in your home all year except for temporary absences (illness, vacation, school, military service, etc.);
5. You paid more than half the cost of keeping up a home for the year.

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](#).

## **Domestic Partners**

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 cannot use the filing statuses "Married/CU couple, filing joint return" or "Married/CU partner, filing separate return." However, if you also entered into a legally sanctioned same-sex relationship outside New Jersey, you may still be able to use the joint or separate filing statuses. See the Division's website for more information on [civil unions](#).

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## **For More Information**

### **Online**

- Division of Taxation [website](#);
- [Email](#) general State tax questions.  
**Do not include confidential information** such as Social Security or federal tax identification numbers, liability or payment amounts, dates of birth, or bank account numbers in your email;
- Subscribe to [NJ Tax E-News](#), the Division of Taxation's online information service.

### **By Phone**

- Call the Division of Taxation's Customer Service Center at **609-292-6400**;
- Text Telephone Service (TTY/TDD) for Hearing-Impaired 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 New Jersey tax matter and receive a reply through NJ Relay Services (711).

### **In Person**

Visit a New Jersey Division of Taxation Regional Information Center. For the address of the center nearest you, visit our [website](#) or call the Automated Tax Information System at 1-800-323-4400.

## **Forms and Publications**

- Visit the Division of Taxation's website for [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) to have printed forms or publications mailed to you. **NOTE:** Due to budgetary constraints, supplies are limited and only certain forms and publications can be ordered through this system.