

103 KAR 17:020. Combined individual returns.

RELATES TO: KRS 131.010, 141.010, 141.019, 141.050, 141.180, 141.900

STATUTORY AUTHORITY: KRS 131.130, 141.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the department to promulgate administrative regulations to administer and enforce Kentucky's tax laws. This administrative regulation provides a basis for the combined individual income tax return which permits married taxpayers to gain the benefits of separate filing on one return.

Section 1. Separate Return. Any individual, whether married or single, may elect to file a separate return. If both spouses have income, separate returns are required for married taxpayers that do not have the same residency status as a resident, nonresident, or part year resident.

Section 2. Joint Return. A taxpayer and spouse may elect, for any year, to file a joint return if they are married at the close of the taxable year; or a surviving spouse may elect to file a joint return if the deceased spouse died during the taxable year even though one (1) spouse had no gross income. If a joint return is filed, the gross income and adjusted gross income of the taxpayer and spouse are computed in an aggregate amount and the deductions and the net income are also computed on an aggregate basis. If separate returns have been filed by both spouses for the taxable year, the taxpayers may elect to file an amended joint return if the Department of Revenue is notified in writing that the separate return election is rescinded. Likewise, if two (2) married taxpayers have filed a joint return for the taxable year, they may elect to file an amended combined or amended separate returns. Taxpayers filing joint returns are jointly and severally liable for all taxes, penalties, and interest accruing under the return.

Section 3. Combined Return. Taxpayers may elect, for any year, to file a combined return if they are married at the close of the taxable year and have the same residency status as a resident, nonresident, or part year resident. If a combined return is filed, the gross income, adjusted gross income, deductions, net income, tax credits, and tax liabilities of the taxpayer and spouse are computed separately, but the tax shall be assessed on an aggregate basis. If married taxpayers elect to file a combined return, refunds shall be made payable to the taxpayers jointly and the taxpayers shall be jointly and severally liable for all taxes, penalties, and interest. Married couples electing to file a combined return shall not be permitted to rescind such election and file separate returns for that taxable year. (II-2; 1 Ky.R. 225; eff. 1-8-1975; 3 Ky.R. 147; eff. 9-1-1976; 45 Ky.R. 1068, 1516; eff. 1-4-2019.)