



Robert W. Wood

THE TAX LAWYER

TAXES 4/04/2016

Bernie Dodges Tax Returns, Says Wife Does Them; Mrs. Trump, Kim Kardashian Should Take Note

Releasing tax returns is a feature of every presidential election, but this campaign been an odd one. Some tax return summaries (Rubio, Cruz) tell us little, and Mr. Trump has raised eyebrows with his 12 year audit. But Bernie Sanders gets the latest news, responding to CNN questions about his transparency, snapping to CNN that [‘my wife does our tax returns’](#) and they’ve been busy.

Unlike Mr. Trump, who alludes to how vastly complex his huge and big dollar tax returns must be, Sen. Sanders says his are no surprise. With his Senate salary, how exciting could they be, he asks? Yet it’s worth remembering—this is tax filing season for all of us after all—that couples who file their taxes together may stand or fall together when it comes to the IRS. So before every couple signs this year—under penalties of perjury—joint filing could be worth second and more critical look.



It seems reasonable to think that Sen. Sanders files jointly. In fact, [95% of married couples file taxes jointly, but should you?](#) There is a strong knee-jerk “file jointly” reaction, perhaps the ultimate of all knee-jerk reactions. Tax return preparers may assume that’s what you want, because most people do. Yet that simple step makes each spouse liable for *everything* on the return—and anything that might *not* be on the return.

Joint filing is convenient, and can save money compared to separate filings. Besides, you may have heard that if you get into hot water over something your spouse did—perhaps you didn’t know your spouse was gambling or hiding income—you can claim [innocent spouse relief](#). However, there are numerous hurdles and limitations. You can avoid these issues *entirely* by filing taxes ‘married filing separate.’

Consider Kim Kardashian and spouse Kanye West. With [\\$53 million in debt](#), Kanye West asked for [\\$1 billion from Mark Zuckerberg](#). But money from Google’s Larry Page, or even contributions dribbling in via GoFundMe, could help. Closer to home, [Kim Kardashian West](#) has money. She and Mr. West are married with two kids, and have what can fairly be described as an empire. Yet, it is *two* empires, since [the couple keep their finances separate](#).

That means separate tax filings too. Although separate tax filings and separate finances do not always go hand in hand, they work best in concert. By filing jointly, each of spouse is 100% liable regardless of who had the income. What if you learn that your spouse had unreported income? You are on the hook too, and for 100%, not just for half. This problem can be worse than you might think.

The issue is biggest for couples with sizable assets, especially where one or both face business or tax risks. And there is always that looming “you never told me” kind of problem. If one spouse has current or past legal, tax or credit problems, separate filings can save you headaches. That’s true with couples who have separate property too.

There are actually [five filing choices](#): Single, Married Filing Jointly, Married Filing Separately, Head of Household and Qualifying Widow(er) with Dependent Child. Head of Household status may be the one most often claimed in error. The IRS wants you to [choose the right filing status](#), and some of the rules are rigid. For example, your marital status on the last day of the year determines your marital status for the entire year.

Thus, to be eligible to file a married filing joint return, you must be married on December 31st. If you are legally separated under state law you can file single. Of course, if you are legally divorced you can also file single. But if you are still married on December 31st and not legally separated, you'll need to file married (presumably filing separate), not single.

If more than one filing status applies, you can pick the one giving you the lowest tax. Even if you would pay less that way, it could be worth considering filing separately. Consider running the numbers both ways, and do not merely consider the marginal tax dollars. It can be worthwhile to keep returns separate, especially if one spouse has past credit, tax or legal problems or any of these problems seem likely in the future. Separate filings help keep assets from being co-mingled too, which can make divorce less consequential.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This article is not legal advice.