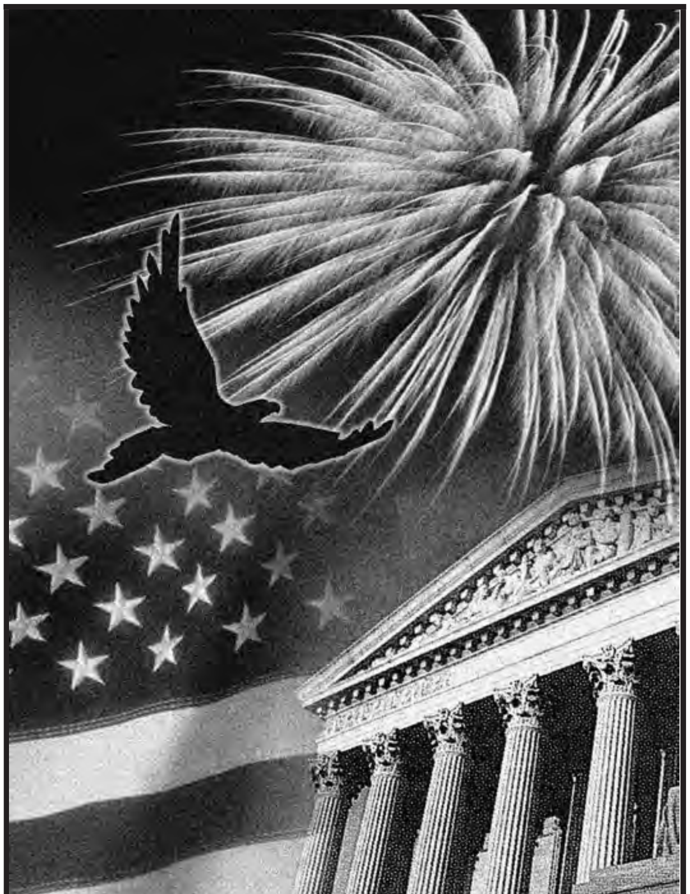
Department of the Treasury
Internal Revenue Service

Publication 555
(Rev. May 2007)
Cat. No. 15103C

Community Property



Get forms and other information faster and easier by:

Internet • www.irs.gov

Contents

Important Reminder

Photographs of missing children. The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. Photographs of missing children selected by the Center may appear in this publication on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling **1-800-THE-LOST (1-800-843-5678)** if you recognize a child.

Introduction

This publication is for married taxpayers who are domiciled in one of the following community property states:

- Arizona,
- California,
- Idaho,
- Louisiana,
- Nevada,
- New Mexico,
- Texas,
- Washington, or
- Wisconsin.

This publication does not address the federal tax treatment of income or property subject to the “community property” election under Alaska state laws.

Community property laws affect how you figure your income on your federal income tax return if you are married, live in a community property state or country, and file separate returns. Your tax usually will be less by filing a joint return if you are married. Sometimes it can be to your advantage to file separate returns. If you and your spouse file separate returns, you have to determine your community income and your separate income.

Community property laws also affect your basis in property you inherit from a married person who lived in a community property state. See *Death of spouse,* later.

California domestic partners. If you are a registered domestic partner in California, the rules discussed in this publication for reporting community income do not apply to you. You must report all wages, salaries, and other compensation received for your personal services on your own return. Therefore, you cannot report half the combined income that you and your domestic partner earned as a married person filing separately does in California.

Comments and suggestions. We welcome your comments about this publication and your suggestions for future editions.

You can write to us at the following address:

Internal Revenue Service
Individual Forms and Publications Branch
SE:W:CAR:MP:T:I
1111 Constitution Ave. NW, IR-6406
Washington, DC 20224

We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

You can email us at **taxforms@irs.gov*. (The asterisk must be included in the address.) Please put “Publications Comment” on the subject line. Although we cannot respond individually to each email, we do appreciate your feedback and will consider your comments as we revise our tax products.

Ordering forms and publications. Visit *www.irs.gov/formspubs* to download forms and publications, call 1-800-829-3676, or write to the address below and receive a response within 10 business days after your request is received.

National Distribution Center
P.O. Box 8903
Bloomington, IL 61702-8903

Tax questions. If you have a tax question, visit *www.irs.gov* or call 1-800-829-1040. We cannot answer tax questions sent to either of the above addresses.

Useful Items

You may want to see:

Publication

- ❏ **504** Divorced or Separated Individuals
- ❏ **505** Tax Withholding and Estimated Tax
- ❏ **971** Innocent Spouse Relief (And Separation of Liability and Equitable Relief)

Form (and Instructions)

- ❏ **8857** Request for Innocent Spouse Relief

See *How To Get Tax Help* near the end of this publication for information about getting these publications.

Domicile

Whether you have community property and community income depends on the state where you are domiciled. If you and your spouse have different domiciles, check the laws of each to see whether you have community property or community income.

You have only one domicile even if you have more than one home. Your domicile is a permanent legal home that you intend to use for an indefinite or unlimited period, and to which, when absent, you intend to return. The question of your domicile is mainly a matter of your intention as indicated by your actions. You must be able to show with facts that you intend a given place or state to be your permanent home. If you move into or out of a community property state during the year, you may or may not have community income.

Factors considered in determining domicile include:

- Where you pay state income tax,
- Where you vote,
- Location of property you own,
- Your citizenship,
- Length of residence, and
- Business and social ties to the community.

Amount of time spent. The amount of time spent in one place does not always explain the difference between home and domicile. A temporary home or residence may continue for months or years while a domicile may be established the first moment you occupy the property. Your intent is the determining factor in proving where you have your domicile.

Note. When this publication refers to where you live, it means your domicile.

Community or Separate Property and Income

If you file a federal tax return separately from your spouse, you must report half of all community income and all of your separate income. Generally, the laws of the state in which you are domiciled govern whether you have community property and community income or separate property and separate income for federal tax purposes. The following is a summary of the general rules. These rules are also shown in Table 1.

Community property. Generally, community property is property:

- That you, your spouse, or both acquire during your marriage while you and your spouse are domiciled in a community property state.
- That you and your spouse agreed to convert from separate to community property.
- That cannot be identified as separate property.

Community income. Generally, community income is income from:

- Community property.
- Salaries, wages, and other pay received for the services performed by you, your spouse, or both during your marriage.
- Real estate that is treated as community property under the laws of the state where the property is located.

Separate property. Generally, separate property is:

- Property that you or your spouse owned separately before your marriage.
- Money earned while domiciled in a noncommunity property state.
- Property that you or your spouse received separately as a gift or inheritance during your marriage.
- Property that you or your spouse bought with separate funds, or acquired in exchange for separate property, during your marriage.
- Property that you and your spouse converted from community property to separate property through an agreement valid under state law.
- The part of property bought with separate funds, if part was bought with community funds and part with separate funds.

Separate income. Generally, income from separate property is the separate income of the spouse who owns the property.

CAUTION *In Idaho, Louisiana, Texas, and Wisconsin, income from most separate property is community income.*

Table 1. **General Rules — Property and Income: Community or Separate?**

Community property is property: • That you, your spouse, or both acquire during your marriage while you are domiciled in a community property state. (Includes the part of property bought with community property funds if part was bought with community funds and part with separate funds.) • That you and your spouse agreed to convert from separate to community property. • That cannot be identified as separate property.	**Separate property** is: • Property that you or your spouse owned separately before your marriage. • Money earned while domiciled in a noncommunity property state. • Property either of you received as a gift or inherited separately during your marriage. • Property bought with separate funds, or exchanged for separate property, during your marriage. • Property that you and your spouse agreed to convert from community to separate property through an agreement valid under state law. • The part of property bought with separate funds, if part was bought with community funds and part with separate funds.
Community income [1,2,3] is income from: • Community property. • Salaries, wages, or pay for services of you, your spouse, or both during your marriage. • Real estate that is treated as community property under the laws of the state where the property is located.	**Separate income** [1,2] is income from: • Separate property. Separate income belongs to the spouse who owns the property.

[1] **Caution:** In Idaho, Louisiana, Texas, and Wisconsin, income from most separate property is community income.
[2] **Caution:** Check your state law if you are separated but do not meet the conditions discussed in *Spouses living apart all year.* In some states, the income you earn after you are separated and before a divorce decree is issued continues to be community income. In other states, it is separate income.
[3] **Caution:** Under special rules, income that can otherwise be characterized as community income may not be treated as community income for federal income tax purposes in certain situations. See *Community Property Laws Disregarded*.

Identifying Income, Deductions, and Credits

If you file separate returns, you and your spouse must be able to identify your community and separate income, deductions, credits, and other return amounts according to the laws of your state.

Income

The following is a discussion of the general effect of community property laws on the federal income tax treatment of certain items of income.

Wages, earnings, and profits. A spouse's wages, earnings, and net profits from a sole proprietorship are community income and must be evenly split.

Dividends, interest, and rents. Dividends, interest, and rents from community property are community income and must be evenly split. Dividends, interest, and rents from separate property are characterized in accordance with the discussion under *Income from separate property*, later.

Alimony received. Alimony or separate maintenance payments made prior to divorce are taxable to the payee spouse only to the extent they exceed 50% (his or her share) of the reportable community income. This is so because the payee spouse is already required to report half of the community income. See also *Alimony paid*, later.

Gains and losses. Gains and losses are classified as separate or community depending on how the property is held. For example, a loss on separate property, such as stock held separately, is a separate loss. On the other hand, a loss on community property, such as a casualty loss to your home held as community property, is a community loss. See Publication 544, *Sales and Other Dispositions of Assets,* for information on gains and losses. See Publication 547, *Casualties, Disasters, and Thefts,* for information on losses due to a casualty or theft.

Withdrawals from individual retirement arrangements (IRAs) and Coverdell Education Savings Accounts (ESAs). There are several kinds of individual retirement arrangements (IRAs). They are traditional IRAs (including SEP-IRAs), SIMPLE IRAs, and Roth IRAs. IRAs and ESAs by law are deemed to be separate property. Therefore, taxable IRA and ESA distributions are separate property, even if the funds in the account would otherwise be community property. These distributions are wholly taxable to the spouse whose name is on the account. That spouse is also liable for any penalties and additional taxes on the distributions.

Pensions. Generally, distributions from pensions will be characterized as community or separate income depending on the respective periods of participation in the pension while married and domiciled in a community property state or in a noncommunity property state during the total period of participation in the pension. See the example under *Civil service retirement*, later. These rules may vary between states. Check your state law.

Lump-sum distributions. If you were born before January 2, 1936, and receive a lump-sum distribution from a qualified retirement plan, you may be able to choose an optional method of figuring the tax on the distribution. For the 10-year tax option, you must disregard community property laws. For more information, see Publication 575, *Pension and Annuity Income,* and Form 4972, *Tax on Lump-Sum Distributions.*

Civil service retirement. For income tax purposes, community property laws apply to annuities payable under the Civil Service Retirement Act (CSRS) or Federal Employee Retirement System (FERS).

Whether a civil service annuity is separate or community income depends on the marital status and domicile of the employee when the services were performed for which the annuity is paid. Even if you now live in a noncommunity property state and you receive a civil service annuity, it may be community income if it is based on services you performed while married and domiciled in a community property state.

If a civil service annuity is a mixture of community income and separate income, it must be divided between the two kinds of income. The division is based on the employee's domicile and marital status in community and noncommunity property states during his or her periods of service.

Example. Henry Wright retired this year after 30 years of civil service. He and his wife were domiciled in a community property state during the past 15 years.

Since half the service was performed while the Wrights were married and domiciled in a community property state, half the civil service retirement pay is considered to be community income. If Mr. Wright receives $1,000 a month in retirement pay, $500 is considered community income—half ($250) is his income and half ($250) is his wife's.

Military retirement pay. State community property laws apply to military retirement pay. Generally, the pay is either separate or community income based on the marital status and domicile of the couple while the member of the Armed Forces was in active military service. For example, military retirement pay for services performed during marriage and domicile in a community property state is community income.

Active military pay earned while married and domiciled in a community property state is also community income. This income is considered to be received half by the member of the Armed Forces and half by the spouse.

Partnership income. If an interest is held in a partnership, and income from the partnership is attributable to the efforts of either spouse, the partnership income is community property. If it is merely a passive investment in a separate property partnership, the partnership income will be characterized in accordance with the discussion under *Income from separate property*, later.

Tax-exempt income. Community income exempt from federal tax generally keeps its exempt status for both spouses. For example, under certain circumstances, income earned outside the United States is tax exempt. If you earned income and met the conditions that made it exempt, the income is also exempt for your spouse even though he or she may not have met the conditions.

Income from separate property. In some states, income from separate property is separate income. These states include Washington, Nevada, California, Arizona, and New Mexico. Other states characterize income from separate property as community income. These states include Idaho, Louisiana, Wisconsin, and Texas.

Exemptions

When you file separate returns, you must claim your own exemption amount for that year. (See your tax package instructions.)

You cannot divide the amount allowed as an exemption for a dependent between you and your spouse. When community funds provide support for more than one person, each of whom otherwise qualifies as a dependent, you and your spouse may divide the number of dependency exemptions as explained in the following example.

Example. Ron and Diane White have three dependent children and live in Nevada. If Ron and Diane file separately, only Ron can claim his own exemption, and only Diane can claim her own exemption. Ron and Diane can agree that one of them will claim the exemption for one, two, or all of their children and the other will claim any remaining exemptions. They cannot each claim half of the total exemption amount for their three children.

Deductions

If you file separate returns, your deductions generally depend on whether the expenses involve community or separate income.

Business and investment expenses. If you file separate returns, expenses incurred to earn or produce:

- Community business or investment income are generally divided equally between you and your spouse. Each of you is entitled to deduct one-half of the expenses on your separate returns.
- Separate business or investment income are deductible by the spouse who earns the income.

Other limits may also apply to business and investment expenses. For more information, see Publication 535, *Business Expenses,* and Publication 550, *Investment Income and Expenses.*

Alimony paid. Payments that may otherwise qualify as alimony are not deductible by the payer if they are the recipient spouse's part of community income. They are deductible as alimony only to the extent they are more than that spouse's part of community income.

Example. You live in a community property state. You are separated but the special rules explained later under *Spouses living apart all year* do not apply. Under a written agreement, you pay your spouse $12,000 of your $20,000 total yearly community income. Your spouse receives no other community income. Under your state law, earnings of a spouse living separately and apart from the other spouse continue as community property.

On your separate returns, each of you must report $10,000 of the total community income. In addition, your spouse must report $2,000 as alimony received. You can deduct $2,000 as alimony paid.

IRA deduction. Deductions for IRA contributions cannot be split between spouses. The deduction for each spouse is figured separately and without regard to community property laws.

Personal expenses. Expenses that are paid out of separate funds, such as medical expenses, are deductible by the spouse who pays them. If these expenses are paid from community funds, divide the deduction equally between you and your spouse.

Credits, Taxes, and Payments

The following is a discussion of the general effect of community property laws on the treatment of certain credits, taxes, and payments on your separate return.

Child tax credit. You may be entitled to a child tax credit for each of your qualifying children. You must provide the name and identification number (usually the social security number) of each qualifying child on your return. See your tax package instructions for the maximum amount of the credit you can claim for each qualifying child.

Limit on credit. The credit is limited if your modified adjusted gross income (modified AGI) is above a certain amount. The amount at which the limitation (phaseout) begins depends on your filing status. Generally, your credit is limited to your tax liability unless you have three or more qualifying children. See your tax package instructions for more information.

Self-employment tax. This section discusses the effect of community property laws on the imposition of self-employment tax on the earnings and profits of a sole proprietorship and partnerships. For the effect of community property laws on the income tax treatment of income from a sole proprietorship and partnerships, see *Wages, earnings, and profits* and *Partnership income*, earlier.

Sole proprietorship. With regard to net income from a trade or business (other than a partnership) that is community income, self-employment tax is imposed on the spouse carrying on the trade or business.

Partnerships. All of the distributive share of a married partner's income or loss from a partnership trade or business is attributable to the partner for computing any self-employment tax, even if a portion of the partner's distributive share of income or loss is community income or loss that is otherwise attributable to the partner's spouse for income tax purposes. If both spouses are partners, any self-employment tax is allocated based on their distributive shares.

Federal income tax withheld. Report the credit for federal income tax withheld on community wages in the same manner as your wages. If you and your spouse file separate returns on which each of you reports half the community wages, each of you is entitled to credit for half the income tax withheld on those wages.

Estimated tax payments. In determining whether you must pay estimated tax, apply the estimated tax rules to your estimated income. These rules are explained in Publication 505.

If you think you may owe estimated tax and want to pay the tax separately, determine whether you must pay it by taking into account:

1. Half the community income and deductions,
2. All of your separate income and deductions, and
3. Your own exemption and any exemptions for dependents that you may claim.

Whether you and your spouse pay estimated tax jointly or separately will not affect your choice of filing joint or separate income tax returns.

If you and your spouse paid estimated tax jointly but file separate income tax returns, either of you can claim all of the estimated tax paid, or you may divide it between you in any way that you agree upon.

If you cannot agree on how to divide it, the estimated tax you can claim equals the total estimated tax paid times the tax shown on your separate return, divided by the total of the tax shown on your return and your spouse's return.

Earned income credit. You may be entitled to an earned income credit (EIC). You cannot claim this credit if your filing status is married filing separately.

If you are married, but qualify to file as head of household under rules for married taxpayers living apart (see Publication 501), and live in a state that has community property laws, your earned income for the EIC does not include any amount earned by your spouse that is treated as belonging to you under community property laws. That amount is not earned income for the EIC, even though you must include it in your gross income on your income tax return. Your earned income includes the entire amount **you** earned, even if part of it is treated as belonging to your spouse under your state's community property laws.

CAUTION *This rule does not apply when determining your adjusted gross income (AGI) for the EIC. Your AGI includes that part of both your and your spouse's wages that you are required to include in gross income shown on your tax return.*

For more information about the EIC, see Publication 596, *Earned Income Credit (EIC)*.

Overpayments. The amount of an overpayment on a joint return is allocated under the community property laws of the state in which you are domiciled.

- If, under the laws of your state, community property is subject to premarital or other separate debts of either spouse, the full joint overpayment may be used to offset the obligation.
- If, under the laws of your state, community property is not subject to premarital or other separate debts of either spouse, only the portion of the joint overpayment allocated to the spouse liable for the obligation can be used to offset that liability. The portion allocated to the other spouse can be refunded.

Community Property Laws Disregarded

The following discussions are situations where special rules apply to community property.

Certain community income not treated as community income by one spouse. Community property laws may not apply to an item of community income that you received but did not treat as community income. You are responsible for reporting all of that income item if:

1. You treat the item as if only you are entitled to the income, and
2. You do not notify your spouse of the nature and amount of the income by the due date for filing the return (including extensions).

Relief from liability arising from community property law. You are not responsible for the tax relating to an item of community income if **all** the following conditions exist.

1. You did not file a joint return for the tax year.
2. You did not include an item of community income in gross income.
3. The item of community income you did not include is one of the following:
    a. Wages, salaries, and other compensation your spouse (or former spouse) received for services he or she performed as an employee.
    b. Income your spouse (or former spouse) derived from a trade or business he or she operated as a sole proprietor.
    c. Your spouse's (or former spouse's) distributive share of partnership income.
    d. Income from your spouse's (or former spouse's) separate property (other than income described in (a), (b), or (c)). Use the appropriate community property law to determine what is separate property.
    e. Any other income that belongs to your spouse (or former spouse) under community property law.
4. You establish that you did not know of, and had no reason to know of, that community income.
5. Under all facts and circumstances, it would not be fair to include the item of community income in your gross income.

Requesting relief. For information on how and when to request relief from liabilities arising from community property laws, see *Community Property Laws* in Publication 971.

Equitable relief. If you do not qualify for the relief discussed above and are now liable for an underpayment or understatement of tax you believe should be paid only by your spouse (or former spouse), you may request equitable relief. To request equitable relief, you must file Form 8857, *Request for Innocent Spouse Relief*, or other similar statement. Also see Publication 971.

Spousal agreements. In some states a husband and wife may enter into an agreement that affects the status of property or income as community or separate property. Check your state law to determine how it affects you.

Nonresident alien spouse. If you are a United States citizen or resident alien and you choose to treat your nonresident alien spouse as a U.S. resident for tax purposes and you are domiciled in a community property state or country, use the community property rules. You must file a joint return for the year you make the choice. You can file separate returns in later years. For details on making this choice, see Publication 519, *U.S. Tax Guide for Aliens.*

If you are a U.S. citizen or resident alien and do not choose to treat your nonresident alien spouse as a U.S. resident for tax purposes, treat your community income as explained next under *Spouses living apart all year.* However, you do not have to meet the four conditions discussed there.

Spouses living apart all year. If you are married at any time during the calendar year, special rules apply for reporting certain community income. You must meet **all** the following conditions for these special rules to apply.

1. You and your spouse lived apart all year.
2. You and your spouse did not file a joint return for a tax year beginning or ending in the calendar year.
3. You and/or your spouse had earned income for the calendar year that is community income.
4. You and your spouse have not transferred, directly or indirectly, any of the earned income in condition (3) above between yourselves before the end of the year. Do not take into account transfers satisfying child support obligations or transfers of very small amounts or value.

If all these conditions are met, you and your spouse must report your community income as discussed next. See also *Certain community income not treated as community income by one spouse,* earlier.

Earned income. Treat earned income that is not trade or business or partnership income as the income of the spouse who performed the services to earn the income. Earned income is wages, salaries, professional fees, and other pay for personal services.

Earned income does **not** include amounts paid by a corporation that are a distribution of earnings and profits rather than a reasonable allowance for personal services rendered.

Trade or business income. Treat income and related deductions from a trade or business that is not a partnership as those of the spouse carrying on the trade or business.

Partnership income or loss. Treat income or loss from a trade or business carried on by a partnership as the income or loss of the spouse who is the partner.

Separate property income. Treat income from the separate property of one spouse as the income of that spouse.

Social security benefits. Treat social security and equivalent railroad retirement benefits as the income of the spouse who receives the benefits.

Other income. Treat all other community income, such as dividends, interest, rents, royalties, or gains, as provided under your state's community property law.

Example. George and Sharon were married throughout the year but did not live together at any time during the year. Both domiciles were in a community property state. They did not file a joint return or transfer any of their earned income between themselves. During the year their incomes were as follows:

	George	**Sharon**
Wages	$20,000	$22,000
Consulting business	5,000	
Partnership		10,000
Dividends from separate property	1,000	2,000
Interest from community property	500	500
Total	$26,500	$34,500

Under the community property law of their state, all the income is considered community income. (Some states treat income from separate property as separate income—check your state law.) Sharon did not take part in George's consulting business.

Ordinarily, on their separate returns they would each report $30,500, half the total community income of $61,000 ($26,500 + $34,500). But because they meet the four conditions listed earlier under *Spouses living apart all year*, they must disregard community property law in reporting all their income (except the interest income) from community property. They each report on their returns only their own earnings and other income, and their share of the interest income from community property. George reports $26,500 and Sharon reports $34,500.

Other separated spouses. If you and your spouse are separated but do not meet the four conditions discussed earlier under *Spouses living apart all year*, you must treat your income according to the laws of your state. In some states, income earned after separation but before a decree of divorce continues to be community income. In other states it is separate income.

End of the Marital Community

The marital community may end in several ways. When the marital community ends, the community assets (money and property) are divided between the spouses.

Death of spouse. In community property states, each spouse usually is considered to own half the estate (excluding separate property). If your spouse dies, the total fair market value (FMV) of the community property, including the part that belongs to you, generally becomes the basis of the entire property. For this rule to apply, at least half the value of the community property interest must be includible in your spouse's gross estate, whether or not the estate must file a return.

For example, Bob and Ann owned community property that had a basis of $80,000. When Bob died, his and Ann's community property had an FMV of $100,000. One-half of the FMV of their community interest was includible in Bob's estate. The basis of Ann's half of the property is $50,000 after Bob died (half of the $100,000 FMV). The basis of the other half to Bob's heirs is also $50,000.

For more information about the basis of assets, see Publication 551, *Basis of Assets.*

Divorce or separation. The (equal or unequal) division of community property in connection with a divorce or property settlement does not result in a gain or loss. For information on the tax consequences of the division of property under a property settlement or divorce decree, see Publication 504.

Each spouse is taxed on half the community income for the part of the year before the community ends. However, see *Spouses living apart all year,* earlier. Any income received after the marital community ends is separate income. This separate income is taxable only to the spouse to whom it belongs.

An ***absolute decree of divorce or annulment*** ends the marital community in all community property states. A decree of annulment, even though it holds that no valid marriage ever existed, usually does not nullify community property rights arising during the "marriage." However, you should check your state law for exceptions.

A ***decree of legal separation or of separate maintenance*** may or may not end the marital community. The court issuing the decree may terminate the marital community and divide the property between the spouses.

A ***separation agreement*** may divide the community property between you and your spouse. It may provide that this property, along with future earnings and property acquired, will be separate property. This agreement may end the community.

In some states, the marital community ends when the spouses permanently separate, even if there is no formal agreement. Check your state law.

Preparing a Federal Income Tax Return

The following discussion does not apply to spouses who meet the conditions under *Spouses living apart all year,* discussed earlier. Those spouses must report their community income as explained in that discussion.

Joint Return Versus Separate Returns

Ordinarily, filing a joint return will give you a greater tax advantage than filing a separate return. But in some cases, your combined income tax on separate returns may be less than it would be on a joint return.

If you file separate returns:

1. You should itemize deductions if your spouse itemizes deductions, because you cannot claim the standard deduction,
2. You cannot take the credit for child and dependent care expenses in most instances,
3. You cannot take the earned income credit,
4. You cannot exclude any interest income from qualified U.S. savings bonds that you used for higher education expenses,
5. You cannot take the credit for the elderly or the disabled unless you lived apart from your spouse all year,
6. You may have to include in income more of any social security benefits (including any equivalent railroad retirement benefits) you received during the year than you would on a joint return,
7. You cannot deduct interest paid on a qualified student loan,
8. You cannot take the education credits (the Hope and lifetime learning credits),
9. You may have a smaller child tax credit than you would on a joint return, and
10. You cannot take the exclusion or credit for adoption expenses in most instances.

TIP *Figure your tax both on a joint return and on separate returns under the community property laws of your state. You can then compare the tax figured under both methods and use the one that results in less tax.*

Separate Return Preparation

If you file separate returns, you and your spouse must each report half of your combined community income and deductions in addition to your separate income and deductions. List only your share of the income and deductions on the appropriate lines of your separate tax returns (wages, interest, dividends, etc.). For a discussion of the effect of community property laws on certain items of income, deductions, credits, and other return amounts, see *Identifying Income, Deductions, and Credits*, earlier.

Attach a worksheet to your separate returns showing how you figured the income, deductions, and federal income tax withheld that each of you reported. The *Allocation Worksheet* (Table 2) shown later can be used for this purpose. If you do not attach a worksheet, you and your spouse should each attach a photocopy of the other spouse's Form W-2 or 1099-R. Make a notation on the form showing the division of income and tax withheld.

Extension of time to file. An extension of time for filing your separate return does not extend the time for filing your spouse's separate return. If you and your spouse file a joint return, you cannot file separate returns after the due date for filing either separate return has passed.

Table 2. **Allocation Worksheet**

	1 Total Income (Community/Separate)	2 Allocated to Husband	2 Allocated to Wife
1. Wages (each employer)			
2. Interest Income (each payer)			
3. Dividends (each payer)			
4. State Income Tax Refund			
5. Capital Gains and Losses			
6. Pension Income			
7. Rents, Royalties, Partnerships, Estates, Trusts			
8. Taxes Withheld			
9. Other items such as: Social Security Benefits, Business and Farm Income or Loss, Unemployment Compensation, Mortgage Interest Deduction, etc.			

NOTES

Example

Walter and Mary Smith are married and domiciled in a community property state. Their two children (18-year-old twins) and Mary's mother live with them and qualify as their dependents. Amounts paid for their support were paid out of community funds.

Walter received a salary of $53,424. Income tax withheld from his salary was $4,704. Walter received $132 in taxable interest from his savings account. He also received $217 in dividends from stock that he owned. His interest and dividend income are his separate income under the laws of his community property state.

Mary received $200 in dividends from stock that she owned. This is her separate income. In addition, she received $4,200 as a part-time dental technician. No income tax was withheld from her salary.

The Smiths paid a total of $5,775 in medical expenses. Medical insurance of $1,050 was paid out of community funds. Walter paid $4,725 out of his separate funds for an operation he had.

The Smiths had $10,264 in other itemized deductions, none of which were miscellaneous itemized deductions subject to the 2%-of-adjusted-gross-income limit. The amounts spent for these deductions were paid out of community funds.

To see if it is to the Smiths' advantage to file a joint return or separate returns, a worksheet (Table 3, shown next) is prepared to figure their federal income tax both ways. Walter and Mary must claim their own exemptions on their separate returns.

The summary at the bottom of the worksheet compares the tax figured on the Smiths' joint return to the total tax figured by adding the tax amounts on their separate returns. By filing separately under the community property laws of their state, the Smiths save $243 in income tax.

If the Smiths were domiciled in Idaho, Louisiana, Texas, or Wisconsin, the result would be slightly different because in those states income from separate property generally is treated as community income. If they lived in one of those states, the interest from Walter's savings account and the dividends from stock owned by each of them would be divided equally on their separate returns.

CAUTION

In figuring your tax, use the amounts from your current tax forms instruction booklet for items such as the standard deduction, exemption allowance, and Tax Table tax. The amounts used in this example apply for 2006 only. The example shows how filing separate returns under community property tax laws can result in lower tax than filing jointly; you must figure your own tax both ways to know which works better for you.

Table 3. **Worksheet — Walter and Mary Smith**

	Joint Return		Separate Returns: Walter's		Separate Returns: Mary's	
Income (Walter's):						
Salary	$ 53,424		$ 26,712		$ 26,712	
Interest and dividends ($217 dividends + $132 interest)	349		349		–0–	
Total		$ 53,773		$ 27,061		$ 26,712
Income (Mary's):						
Salary	$ 4,200		$ 2,100		$ 2,100	
Dividends	200		–0–		200	
Total		4,400		2,100		2,300
Adjusted gross income (AGI)		$ 58,173		$ 29,161		$ 29,012
Deductions:						
Community: (Not subject to the 2% AGI limit)		$ 10,264		$ 5,132		$ 5,132
Medical:						
Premiums	$ 1,050		$ 525		$ 525	
Medical expenses (Walter's)	4,725		4,725		–0–	
Total	$ 5,775		$ 5,250		$ 525	
(Minus) 7.5% of AGI	(4,363)		(2,187)		(2,176)	
Medical expense deduction		$ 1,412		$ 3,063		$ –0–
Total deductions		$ 11,676		$ 8,195		$ 5,132
Subtract total deductions from AGI[1,2]		$ 46,497		$ 20,966		$ 23,880
Exemptions[1,3] (Subtract to find taxable income)		$ (16,500)		$ (6,600)		$ (9,900)
Taxable Income		$ 29,997		$ 14,366		$ 13,980
Tax[1,4]		$ 3,741		$ 1,779		$ 1,719
Federal income tax withheld		$ 4,704		$ 2,352		$ 2,352
Overpayment (Subtract from Federal tax withheld)		$ 963		$ 573		$ 633

[1] **Caution:** In figuring your tax, use the amounts from your current tax forms instruction booklet for such items as the standard deduction, exemption allowance, and Tax Table tax.

[2] The itemized deductions are greater than the standard deduction (shown here as $10,300 for married filing jointly and $5,150 for married filing separately). **Note:** If one spouse itemizes, the other must itemize, even if one spouse's deductions are less than the standard deduction.

[3] An allowance of $3,300 for each exemption claimed is subtracted — 5 on the joint return, 2 on Walter's separate return, and 3 on Mary's separate return.

[4] The tax on the joint return is from the column of the 2006 Tax Table for married filing jointly. The tax on Walter's and Mary's separate returns is from the column of the 2006 Tax Table for married filing separately.

Table 3. **Summary**

Tax on joint return		$ 3,741
Tax on Walter's separate return	$ 1,779	
Tax on Mary's separate return	1,719	
Total tax filing separate returns		3,498
Total savings by filing separate returns		$ 243

How To Get Tax Help

You can get help with unresolved tax issues, order free publications and forms, ask tax questions, and get information from the IRS in several ways. By selecting the method that is best for you, you will have quick and easy access to tax help.

Contacting your Taxpayer Advocate. The Taxpayer Advocate Service is an independent organization within the IRS whose employees assist taxpayers who are experiencing economic harm, who are seeking help in resolving tax problems that have not been resolved through normal channels, or who believe that an IRS system or procedure is not working as it should.

You can contact the Taxpayer Advocate Service by calling toll-free 1-877-777-4778 or TTY/TDD 1-800-829-4059 to see if you are eligible for assistance. You can also call or write to your local taxpayer advocate, whose phone number and address are listed in your local telephone directory and in Publication 1546, The Taxpayer Advocate Service of the IRS - How To Get Help With Unresolved Tax Problems. You can file Form 911, Application for Taxpayer Assistance Order, or ask an IRS employee to complete it on your behalf. For more information, go to *www.irs.gov/advocate*.

Low income tax clinics (LITCs). LITCs are independent organizations that provide low income taxpayers with representation in federal tax controversies with the IRS for free or for a nominal charge. The clinics also provide tax education and outreach for taxpayers with limited English proficiency or who speak English as a second language. Publication 4134, Low Income Taxpayer Clinic List, provides information on clinics in your area. It is available at *www.irs.gov* or at your local IRS office.

Free tax services. To find out what services are available, get Publication 910, IRS Guide to Free Tax Services. It contains a list of free tax publications and describes other free tax information services, including tax education and assistance programs and a list of TeleTax topics.

Internet. You can access the IRS website at *www.irs.gov* 24 hours a day, 7 days a week to:

- *E-file* your return. Find out about commercial tax preparation and *e-file* services available free to eligible taxpayers.
- Check the status of your 2006 refund. Click on *Where's My Refund*. Wait at least 6 weeks from the date you filed your return (3 weeks if you filed electronically). Have your 2006 tax return available because you will need to know your social security number, your filing status, and the exact whole dollar amount of your refund.
- Download forms, instructions, and publications.
- Order IRS products online.
- Research your tax questions online.
- Search publications online by topic or keyword.
- View Internal Revenue Bulletins (IRBs) published in the last few years.
- Figure your withholding allowances using our withholding calculator.
- Sign up to receive local and national tax news by email.
- Get information on starting and operating a small business.

Phone. Many services are available by phone.

- *Ordering forms, instructions, and publications.* Call 1-800-829-3676 to order current-year forms, instructions, and publications, and prior-year forms and instructions. You should receive your order within 10 days.
- *Asking tax questions.* Call the IRS with your tax questions at 1-800-829-1040.
- *Solving problems.* You can get face-to-face help solving tax problems every business day in IRS Taxpayer Assistance Centers. An employee can explain IRS letters, request adjustments to your account, or help you set up a payment plan. Call your local Taxpayer Assistance Center for an appointment. To find the number, go to *www.irs.gov/localcontacts* or look in the phone book under *United States Government, Internal Revenue Service*.
- *TTY/TDD equipment.* If you have access to TTY/TDD equipment, call 1-800-829-4059 to ask tax questions or to order forms and publications.
- *TeleTax topics.* Call 1-800-829-4477 to listen to pre-recorded messages covering various tax topics.
- *Refund information.* To check the status of your 2006 refund, call 1-800-829-4477 and press 1 for automated refund information or call 1-800-829-1954. Be sure to wait at least 6 weeks from the date you filed your return (3 weeks if you filed electronically). Have your 2006 tax return available because you will need to know your social security number, your filing status, and the exact whole dollar amount of your refund.

Evaluating the quality of our telephone services. To ensure IRS representatives give accurate, courteous, and professional answers, we use several methods to evaluate the quality of our telephone services. One method is for a second IRS representative to listen in on or record random telephone calls. Another is to ask some callers to complete a short survey at the end of the call.

Walk-in. Many products and services are available on a walk-in basis.

- *Products.* You can walk in to many post offices, libraries, and IRS offices to pick up certain forms, instructions, and publications. Some IRS offices, libraries, grocery stores, copy centers, city and county government offices, credit unions, and office supply stores have a collection of products available to print from a CD or photocopy from reproducible proofs. Also, some IRS offices and libraries have the Internal Revenue Code, regulations, Internal Revenue Bulletins, and Cumulative Bulletins available for research purposes.
- *Services.* You can walk in to your local Taxpayer Assistance Center every business day for personal, face-to-face tax help. An employee can explain IRS letters, request adjustments to your tax account, or help you set up a payment plan. If you need to resolve a tax problem, have questions about how the tax law applies to your individual tax return, or you're more comfortable talking with someone in person, visit your local Taxpayer Assistance Center where you can spread out your records and talk with an IRS representative face-to-face. No appointment is necessary, but if you prefer, you can call your local Center and leave a message requesting an appointment to resolve a tax account issue. A representative will call you back within 2 business days to schedule an in-person appointment at your convenience. To find the number, go to *www.irs.gov/localcontacts* or look in the phone book under *United States Government, Internal Revenue Service*.

Mail. You can send your order for forms, instructions, and publications to the address below. You should receive a response within 10 business days after your request is received.

National Distribution Center
P.O. Box 8903
Bloomington, IL 61702-8903

CD for tax products. You can order Publication 1796, IRS Tax Products CD, and obtain:

- A CD that is released twice so you have the latest products. The first release ships in January and the final release ships in March.
- Current-year forms, instructions, and publications.
- Prior-year forms, instructions, and publications.
- Bonus: Historical Tax Products DVD - Ships with the final release.
- Tax Map: an electronic research tool and finding aid.
- Tax law frequently asked questions.
- Tax Topics from the IRS telephone response system.
- Fill-in, print, and save features for most tax forms.
- Internal Revenue Bulletins.
- Toll-free and email technical support.

Buy the CD from National Technical Information Service (NTIS) at *www.irs.gov/cdorders* for $25 (no handling fee) or call 1-877-CDFORMS (1-877-233-6767) toll free to buy the CD for $25 (plus a $5 handling fee). Price is subject to change.

CD for small businesses. Publication 3207, The Small Business Resource Guide CD for 2006, is a must for every small business owner or any taxpayer about to start a business. This year's CD includes:

- Helpful information, such as how to prepare a business plan, find financing for your business, and much more.
- All the business tax forms, instructions, and publications needed to successfully manage a business.
- Tax law changes for 2006.
- Tax Map: an electronic research tool and finding aid.
- Web links to various government agencies, business associations, and IRS organizations.
- "Rate the Product" survey—your opportunity to suggest changes for future editions.
- A site map of the CD to help you navigate the pages of the CD with ease.
- An interactive "Teens in Biz" module that gives practical tips for teens about starting their own business, creating a business plan, and filing taxes.

An updated version of this CD is available each year in early April. You can get a free copy by calling 1-800-829-3676 or by visiting *www.irs.gov/smallbiz*.

Index

To help us develop a more useful index, please let us know if you have ideas for index entries. See "Comments and Suggestions" in the "Introduction" for the ways you can reach us.

■