

§ 1.6015(b)-1

26 CFR Ch. I (4-1-04 Edition)

corporation which has regularly paid him annual dividends ranging from \$575 to \$600. Because his gross income can reasonably be expected to include more than \$500 from sources other than wages, S is required to make a declaration of estimated tax for 1972, unless he reasonably expects his estimated tax to be less than \$100.

(f) *Declarations made by agents.* The declaration of income may be made by an agent if, by reason of disease or injury, the person liable for the making of the declaration is unable to make it. The declaration may also be made by an agent if the taxpayer is unable to make the declaration by reason of continuous absence from the United States (including Puerto Rico as if a part of the United States) for a period of at least 60 days prior to the date prescribed by law for making the declaration. In addition, a declaration may be made by an agent if the taxpayer requests permission, in writing, of the district director for the internal revenue district in which is located the legal residence or principal place of business of the person liable for the making of the declaration, and such district director determines that good cause exists for permitting the declaration to be so made. However, assistance in the preparation of the declaration may be rendered under any circumstances. Whenever a declaration is made by an agent it must be accompanied by a power of attorney (or copy thereof) authorizing him to represent his principal in making, executing, or filing the declaration. A form 2848, when properly completed, is sufficient. In addition, where one spouse is physically unable by reason of disease or injury to sign a joint declaration, the other spouse may, with the oral consent of the one who is incapacitated, sign the incapacitated spouse's name in the proper place in the declaration followed by the words "By _____, Husband (or Wife)", and by the signature of the signing spouse in his own right, provided that a dated statement signed by the spouse who is signing the declaration is attached to and made a part of the declaration stating:

- (1) The name of the declaration being filed,
- (2) The taxable year,

(3) The reason for the inability of the spouse who is incapacitated to sign the declaration, and

(4) That the spouse who is incapacitated consented to the signing of the declaration.

The taxpayer and his agent, if any, are responsible for the declaration as made and incur liability for the penalties provided for erroneous, false, or fraudulent declarations.

[T.D. 6500, 25 FR 12108, Nov. 26, 1960, as amended by T.D. 6817, 30 FR 4537, Apr. 8, 1965; T.D. 7117, 36 FR 9422, May 25, 1971; T.D. 7274, 38 FR 11345, May 7, 1973; T.D. 7282, 38 FR 19027, July 17, 1973; T.D. 7332, 39 FR 44232, Dec. 23, 1974]

§ 1.6015(b)-1 Joint declaration by husband and wife.

(a) *In general.* A husband and wife may make a joint declaration of estimated tax even though they are not living together. However, a joint declaration may not be made if they are separated under a decree of divorce or of separate maintenance. A joint declaration may not be made if the taxpayer's spouse is a nonresident alien (including a nonresident alien who is a bona fide resident of Puerto Rico during the entire taxable year) or if his spouse has a different taxable year. If the gross income of each spouse meets the requirements of section 6015(a), either a joint declaration must be made or a separate declaration must be made by each. If a joint declaration is made, the amount estimated as the income tax imposed by chapter 1 (other than by section 56) must be computed on the aggregate estimated taxable income of the spouses (see section 6013(d)(3) and § 1.2-1), while (for taxable years beginning after December 31, 1966) the amount estimated as the self-employment tax imposed by chapter 2 must be computed on the separate estimated self-employment income of each spouse. See sections 1401 and 1402 and § 1.6017-1(b)(1). The liability with respect to the estimated tax, in the case of a joint declaration, shall be joint and several.

(b) *Application to separate returns.* The fact that a joint declaration of estimated tax is made by them will not preclude a husband and his wife from filing separate returns. In case a joint

declaration is made but a joint return is not made for the same taxable year, the payments made on account of the estimated tax for such year may be treated as payments on account of the tax liability of either the husband or wife for the taxable year or may be divided between them in such manner as they may agree. In the event the husband and wife fail to agree to a division, such payments shall be allocated between them in accordance with the following rule. The portion of such payments to be allocated to a spouse shall be that portion of the aggregate of all such payments as the amount of tax imposed by chapter 1 (other than by section 56) shown on the separate return of the taxpayer (plus, for taxable years beginning after December 31, 1966, the amount of tax imposed by chapter 2 shown on the return of the taxpayer) bears to the sum of the taxes imposed by chapter 1 (other than by section 56) shown on the separate returns of the taxpayer and his spouse (plus, for taxable years beginning after December 31, 1966, the sum of the taxes imposed by chapter 2 shown on the returns of the taxpayer and his spouse). For example, assume that for calendar year 1972 H and his Spouse W make a joint declaration of estimated tax and, pursuant thereto, pay a total of \$19,500 of estimated tax. H and W subsequently file separate returns for 1972 showing tax imposed by chapter 1 (other than by section 56) in the amount of \$11,500 and \$8,000, respectively. In addition, H's return shows a tax imposed by chapter 2 in the amount of \$500. H and W fail to agree to a division of the estimated tax paid. The amount of the aggregate estimated tax payments allocated to H is computed as follows:

(1) Amount of tax, imposed by chapter 1 (other than by section 56) shown on H's return	\$11,500
(2) Plus: Amount of tax imposed by chapter 2 shown on H's return	500
	12,000
(3) Total taxes imposed by chapter 1 (other than by section 56) and by chapter 2 shown on H's return	12,000
(4) Amount of tax imposed by chapter 1 (other than by section 56) shown on W's return	\$8,000
(5) Total taxes imposed by chapter 1 (other than by section 56) and by chapter 2 shown on both H's and W's returns	20,000
(6) Proportion of such taxes shown on H's return to total amount of such taxes shown on both H's and W's returns (\$12,000÷20,000)	60%

(7) Amount of estimated tax payments allocated to H (60% of \$10,500)	\$11,700
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Accordingly, H's return would show remaining tax liability in the amount of \$300 (\$12,000 taxes shown less \$11,700 estimated tax allocated).

(c) *Death of spouse.* (1) A joint declaration may not be made after the death of either the husband or wife. However, if it is reasonable for a surviving spouse to assume that there will be filed a joint return for himself and the deceased spouse for his taxable year and the last taxable year of the deceased spouse he may, in making a separate declaration for his taxable year which includes the period comprising such last taxable year of his spouse, estimate the amount of the tax imposed by chapter 1 (other than by section 56) on his and his spouse's taxable income on an aggregate basis and compute his estimated tax with respect to such chapter 1 tax in the same manner as though a joint declaration had been filed.

(2) If a joint declaration is made by husband and wife and thereafter one spouse dies, no further payments of estimated tax on account of such joint declaration are required from the estate of the decedent. The surviving spouse, however, shall be liable for the payment of any subsequent installments of the joint estimated tax unless an amended declaration setting forth the separate estimated tax for the taxable year is made by such spouse. Such separate estimated tax shall be paid at the times and in the amounts determined under the rules prescribed in section 6153. For the purpose of (i) the making of such amended declaration by the surviving spouse, and (ii) the allocation of payments made pursuant to a joint declaration between the surviving spouse and the legal representative of the decedent in the event a joint return is not filed, the payments made pursuant to the joint declaration may be divided between the decedent and the surviving spouse in such proportion as the surviving spouse and the legal representative of the decedent may agree. In the event the surviving spouse and the legal representative of the decedent fail to agree to a division, such payments shall be allocated in accordance with the following rule. The

portion of such payments to be allocated to the surviving spouse shall be that portion of the aggregate amount of such payments as the amount of tax imposed by chapter 1 (other than by section 56) shown on the separate return of the surviving spouse (plus, for taxable years beginning after December 31, 1966, the amount of tax imposed by chapter 2 shown on the return of the surviving spouse) bears to the sum imposed by chapter 1 (other than by section 56) shown on the separate returns of the surviving spouse and of the decedent (plus, for taxable years beginning after December 31, 1966, the sum of the taxes imposed by chapter 2 shown on the returns of the surviving spouse and of the decedent); and the balance of such payments shall be allocated to the decedent. This rule may be illustrated by analogizing the surviving spouse described in this rule to H in the example contained in paragraph (b) of this section and the decedent in this rule to W in that example.

(d) *Signing of declaration.* A joint declaration of a husband and wife (if not made by an agent of one or both spouses) shall be signed by both spouses. The provisions of paragraph (f) of § 1.6015(a)-1, relating to returns made by agents, shall apply where one spouse signs a declaration as agent for the other, or where a third party signs a declaration as agent for one or both spouses.

[T.D. 6500, 25 FR 12108, Nov. 26, 1960, as amended by T. D. 7274, 38 FR 11345, May 7, 1973; T.D. 7427, 41 FR 34027, Aug. 12, 1976]

§ 1.6015(c)-1 Definition of estimated tax.

(a) *In general.* In the case of an individual, the term "estimated tax" means:

(1) The amount which the individual estimates as the amount of the income tax imposed by chapter 1 (other than the tax imposed by section 56 or for taxable years ending before September 30, 1968, the tax surcharge imposed by section 51) for the taxable year (and including the amount which he estimates as the amount of any qualified State individual income taxes which are treated pursuant to section 6361(a) as if they were imposed by chapter 1 for the taxable year), plus

(2) For taxable years beginning after December 31, 1966, the amount which the individual estimates as the amount of the self-employment tax imposed by chapter 2 for the taxable year, minus

(3) The amount which the individual estimates as the sum of any credits against tax provided by part IV of subchapter A of chapter 1. These credits are those provided by section 31 (relating to tax withheld on wages), section 32 (relating to tax withheld at source on nonresident aliens and foreign corporations and on tax-free covenant bonds), section 33 (relating to foreign taxes), section 34 (relating to the credit for dividends received on or before December 31, 1964), section 35 (relating to partially tax-exempt interest), section 37 (relating to the elderly), section 38 (relating to the investment credit), section 39 (relating to certain uses of gasoline, special fuels, and lubricating oil), section 40 (relating to expenses of work incentive programs), section 41 (relating to contributions to candidates), section 42 (relating to general tax credit), section 43 (relating to earned income), section 44 (relating to purchase of new principal residence), section 44A (relating to expenses for household and dependent care services necessary for gainful employment), section 44B (relating to credit for employment of certain new employees), and section 45 (relating to overpayments of tax), minus,

(4) In the case of an individual who is subject to one or more qualified State individual income taxes, the amount which he estimates as the sum of the credits allowed against such taxes pursuant to section 6362(b)(2) (B) or (C) or section 6362(c)(4) and paragraph (c) of § 301.6362-4 of this chapter (Regulations on Procedure and Administration) (relating to the credit for income taxes of other States or political subdivisions thereof) and paragraph (c)(2) of § 301.6361-1 (relating to the credit for tax withheld from wages on account of qualified State individual income taxes), and minus

(5) For taxable years ending after February 29, 1980, the amount which the individual estimates will be the amount of such individual's overpayment of windfall profit tax imposed by section 4986 of the Code for the taxable