



than 15,000 miles in a taxable year may use the standard mileage rate of fifteen cents a mile only for the first 15,000 miles whether they file joint or separate income tax returns. §1.162-1. (Sec. 162, '86 Code.)

Rev. Rul. 77-147, 1977-1 C.B. 41.

282.2 Claims; joint return following separate returns; limitation period. Taxpayers may not file joint returns more than 3 years after the due date of the return if one of the spouses has filed a return claiming unmarried, head of household, or married filing separately filing status. Rev. Rul. 72-539 distinguished. §§1.6013-2, 301.6511(a)-1. (Secs. 6013, 6511; '86 Code.)

Rev. Rul. 83-183, 1983-2 C.B. 220.

282.3 Common-law marriage. A common-law marriage is recognized for purposes of the dependency exemption if it is recognized by the state in which it was entered into, even if the parties later move to a state in which a ceremony is required to initiate the marital relationship. Further, the common-law wife may be considered the taxpayer's spouse for purposes of filing a joint return. §1.151-1. (Secs. 151, 6013; '86 Code.)

Rev. Rul. 58-66, 1958-1 C.B. 60.

282.4 Community income; partnership; California. Absent an agreement between a husband and a wife residing in California to change the characterization of "separate" and "community" property invested in a partnership, the partnership income derived from their separate property is treated as their separate income and that derived from their community property and from a partner's salary is community income. G.C.M.s 9422, 9825, and 25642 superseded. §§1.61-1, 1.702-1. (Secs. 61, 702; '86 Code.)

Rev. Rul. 73-391, 1973-2 C.B. 12.

282.5 Community income; separate earnings agreement; California. Income earned by either a husband or wife for personal services, subsequent to a valid agreement under California law that the earnings of each would be the separate property of the earner, is treated as the separate income of the spouse earning the income and not as community income. G.C.M. 18884 superseded. §1.61-1. (Sec. 61, '86 Code.)

Rev. Rul. 73-390, 1973-2 C.B. 12.

282.6 Identifying numbers; community property state. Married individuals domiciled in a community property state and filing separate returns should show the account numbers of both husband and wife on each return. A wife filing a separate return must use her own account number even though reporting only community income. Where a joint return is filed on which is reported dividends of \$600 or more received by the wife, the account number of the wife must also be shown on the return. §1.6109-1. (Sec. 6109, '86 Code.)

Rev. Rul. 63-132, 1963-2 C.B. 608.

282.7 Joint income on separate return. Returns filed in the husband's name and signed only by him included income belonging to both the husband and the wife who was listed as an exemption on the returns but did not authorize her husband to file joint returns and did not assist in their preparation. *Held*, the returns were not joint returns; the fact that one spouse's returns included income from jointly held assets, or that both executed a consent and power of attorney with respect to taxes for particular years, did not establish conclusively that joint returns were intended. (Sec. 51(b), '39 Code; Sec. 6013, '86 Code.)

Elsie S. Bour, 23 T.C. 237, Acq., 1955-1 C.B. 3; Myrtle O. Calhoun, 23 T.C. 4, Acq., 1954-2 C.B. 3; Arlington F. Brown, 24 T.C. 256, Acq., 1955-2 C.B. 4; Alma Helfrich, 25 T.C. 404, Acq., 1956-1 C.B. 4.

282.8 Joint return; amended; overpayment; single signature. The Service will accept a claim for credit or refund filed by a divorced taxpayer on

Husband and wife

(See also: Child and dependent care expenses)

282.1 Automobile expenses; mileage rate; individual businesses. A husband and wife who operate their jointly owned automobile in their individual businesses for a combined total of more

a Form 1040X with respect to a joint return if the Form 1040X is signed by only one of the taxpayers and will issue a refund check in that taxpayer's name alone. The proper method is provided for computing the refund that may be made to the individual taxpayer. §301.6402-1. (Sec. 6402, '86 Code.)

Rev. Rul. 80-8, 1980-1 C.B. 298.

282.9 Joint return; amended; sale of residence; single signature. A taxpayer and the taxpayer's spouse filed a joint return deferring the gain on the sale of their personal residence. They subsequently obtained a divorce. The former spouse reinvested the required amount and refused to sign an amended return with the taxpayer, who failed to purchase a new residence within the 18-month period. The taxpayer must file an amended joint return for the year of the sale with a letter explaining why the spouse's signature is missing. §§1.1034-1, 1.6013-1. (Secs. 1034, 6013; '86 Code.)

Rev. Rul. 80-5, 1980-1 C.B. 284.

282.10 Joint return; antimiscegenation statutes. The benefit of filing a joint income tax return will not be denied any individual because of antimiscegenation statutes of a State. §1.6013-1. (Sec. 6013, '86 Code.)

Rev. Rul. 68-277, 1968-1 C.B. 526.

282.11 Joint return; change from separate filing; limitation period. A joint return may be filed by a husband and wife after the period of limitation for electing to change from separate returns to a joint return has expired, if no returns have been filed for the year in question. Distinguished by Rev. Rul. 83-183. §301.6013-1. (Sec. 6013, '86 Code.)

Rev. Rul. 72-539, 1972-2 C.B. 634.

282.12 Joint return; court-appointed guardian. A court-appointed guardian charged with the care of a married person's property may file a joint return for such person with the other spouse. §§1.6012-1, 1.6013-1. (Secs. 6012, 6013; '86 Code.)

Rev. Rul. 67-191, 1967-1 C.B. 318.

282.13 Joint return; disclosure of return and return information. Furnishing a copy of a joint return and information concerning a proposed adjustment to a taxpayer spouse during an audit of the joint return is not an unauthorized disclosure under section 6103, even if the spouse asserts the return was signed under duress and the return is determined not to be a valid joint return. §301.6103(a)-1. (Sec. 6103, '86 Code.)

Rev. Rul. 79-64, 1979-1 C.B. 390.

282.14 Joint return; forms constituting election to file. An executed Form 870, Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment, Form 1902E, Report of Individual Income Tax Audit Changes, or Form 4549, Income Tax Audit Changes, is a return as described in section 6020(a) and, when signed by a husband and wife, is a valid election to file a joint return. §§1.6013-1, 301.6020-1. (Secs. 6013, 6020; '86 Code.)

Rev. Rul. 74-203, 1974-1 C.B. 330.

282.15 Joint return; income averaging. A husband and wife may elect on a joint return to use the income averaging method in computing their tax if each spouse meets one of the exceptions to the support requirement even though they furnished less than one-half of their support during their base period years. §§1.1302-5, 1.1303-1. (Secs. 1302, 1303; '86 Code.)

Rev. Rul. 69-95, 1969-1 C.B. 204.

282.16 Joint return; interlocutory divorce decree. The taxpayer filed a joint return with his wife for the year 1953. On December 11, 1953, his wife had obtained an interlocutory decree of

divorce which was to become final six months later. *Held*, the taxpayer was married to his wife and not legally separated from her as of the close of the taxable year and was entitled to file a joint return with her. (Sec. 51(b), '39 Code; Sec. 6013, '86 Code.)

J. R. Calhoun, Jr., 27 T.C. 115, Acq., 1957-2 C.B. 4.

282.17 Joint return; judgement of divorce. A husband and wife who are granted a judgement of divorce under Wisconsin law are precluded from filing a joint income tax return within the meaning of section 6013(a) for a calendar year ending within the six-month period after the judgement is granted, during which time the parties are prohibited from remarrying and the court has the power to vacate or modify the judgement. Rev. Rul. 75-536 obsoleted. §1.6013-1. (Sec. 6013, '86 Code.)

Rev. Rul. 79-330, 1979-2 C.B. 391

282.18 Joint return; net operating loss after divorce. A claim for refund, filed by a taxpayer who was divorced and later remarried and who, in a year when he was single, sustained a net operating loss that is carried back and carried forward to years he was married and filing joint returns, will be valid if signed only by the taxpayer and a refund check will be made out only to him. The method of determining the amount of the overpayment is described. Modified by Rev. Rul. 80-6. §§1.172-7, 1.6013-1, 301.6402-1. (Secs. 172, 6013, 6402; '86 Code.)

Rev. Rul. 75-368, 1975-2 C.B. 480.

282.19 Joint return; net operating loss claimed on separate return after divorce. A divorced taxpayer is entitled to a refund of tax for the taxpayer's interest in a joint overpayment created by a net operating loss on a former spouse's separately filed return. Rev. Ruls. 75-368 and 80-8 amplified. §§1.6013-1, 301.6402-1, 301.6511(a)-1. (Secs. 6013, 6402, 6511; '86 Code.)

Rev. Rul. 86-57, 1986-1 C.B. 362.

282.20 Joint return; net operating loss from separate return year. The proper method is provided for computing the amount to be refunded to an unmarried taxpayer who incurred a net operating loss that was carried back or carried over to a year in which the taxpayer was married and filed a joint return. Rev. Rul. 75-368 modified. §301.6402-1. (Sec. 6402, '86 Code.)

Rev. Rul. 80-6, 1980-1 C.B. 296.

282.21 Joint return; nonresident alien; exempt status of income. An election to file a joint return under section 6013(g) is not a waiver of the privileges provided by section 893(a) of the Code and section 247(b) of the Immigration and Nationality Act that affects the tax exempt status of the income of a nonresident alien married to a U.S. citizen. §§1.893-1, 301.6013-1. (Secs. 893, 6013; '86 Code.)

Rev. Rul. 79-246, 1979-2 C.B. 392.

282.22 Joint return; nonresident alien; living expenses abroad; foreign earned income exclusion. A nonresident alien spouse of a U.S. citizen who joins with the citizen in making an election to be treated as a U.S. resident is eligible for the deduction for certain expenses of living abroad and for the foreign earned income exclusion for residents of camps located in hardship areas. §§5b.911-1, 5b.913-1, 301.6013-1. (Secs. 911, 913, 6013; '86 Code.)

Rev. Rul. 80-170, 1980-1 C.B. 285.

282.23 Joint return; overpayment; credit against separate tax liability. An overpayment on a joint return filed by a husband and wife for a tax liability paid entirely by the wife may not be credited against the separate tax liability of the husband for a prior year. Rev. Ruls. 56-92 and

71-324 revoked. §§1.6013-1, 301.6402-1. (Secs. 6013, 6402; '86 Code.)

Rev. Rul. 74-611, 1974-2 C.B. 399.

282.24 Joint return; overpayment; credit against separate tax liability. The proper method is provided for computing the amount of an overpayment shown on a joint return that may be credited to one spouse's unpaid separate tax liability from a prior year. Rev. Rul. 67-431 amplified. §301.6402-1. (Sec. 6402, '86 Code.)

Rev. Rul. 80-7, 1980-1 C.B. 296.

282.25 Joint return; overpayment; credit against separate tax liability. The proper method is provided for computing the amount of an overpayment shown on a joint return that may be credited to one spouse's unpaid separate tax liability in a community property state. Rev. Ruls. 74-611 and 80-7 amplified. §301.6402-1. (Sec. 6402, '86 Code.)

Rev. Rul. 85-70, 1985-1 C.B. 361.

282.26 Joint return; single signature; ratification. Upon learning of a joint return filed and signed by the husband, the wife indicated her assent to the return in a letter to the District Director but later filed a separate return claiming a refund. *Held*, the correspondence amounted to acceptance and ratification of the joint return and the husband is entitled to an exemption for his wife. (Sec. 6013, '86 Code.)

Matthew L. Ladden, 38 T.C. 530, Acq., 1964-1 (Part 1) C.B. 4.

282.27 Joint return or declaration; one spouse as agent for other; authorization. Form 936, Authorization-Joint Returns or Declarations, may be used to authorize one spouse to sign a joint return or declaration as agent for the other spouse. §1.6012-1, 1.6013-1, 1.6015(b)-1. (Secs. 6012, 6013, 6015; '86 Code.) Note: Form 936 has been replaced by Form 2848 D.

Rev. Rul. 65-248, 1965-2 C.B. 432.

282.28 Joint return or declaration; one spouse as agent for other; oral authorization. One spouse may on oral authorization act as agent for the other spouse who is physically unable to sign a joint return, declaration, or formal authorization. §§1.6012-1, 1.6013-1, 1.6015(b)-1, 1.6061-1. (Secs. 6012, 6013, 6015, 6061; '86 Code.)

Rev. Rul. 70-216, 1970-1 C.B. 265.

282.29 Joint return with former wife; investment credit carryback. Where the marriage of spouses who filed a joint return was later terminated, the husband remarried, and he made a qualified investment in a later year in which he filed a joint return with his second wife, the investment credit may be carried back only to that portion of the tax shown on the joint return the husband filed with his first wife which is attributable to him. The refund check will be made out to the husband alone. Amplified by Rev. Rul. 80-7. §301.6402-2. (Sec. 6402, '86 Code.)

Rev. Rul. 67-431, 1967-2 C.B. 411.

282.30 Jointly owned property; Michigan. Income arising from property held by a husband and wife as tenants by the entirety in Michigan belongs to the husband and he must include the entire amount of such income in his separate return if they do not file jointly; the contrary decision in *Hart* (and related cases) will no longer be followed. However, if the property is sold, each is entitled to one-half of the proceeds which should be reported in their separate returns if they do not file jointly. This ruling, as it relates to income from the property, is not applicable for taxable years ended before 1975 where detrimental to either the husband or wife. §§1.61-1, 301.7805-1. (Secs. 61, 7805; '86 Code.)

Rev. Rul. 75-132, 1975-1 C.B. 20; John H. Hart, 27 B.T.A. 528; Herman Gessner, 32 B.T.A. 1258; Anna S. Whitcomb, 37 B.T.A. 806; H. D.

Husband and wife

Webster, 4 T.C. 1169; Paul G. Greene, 7 T.C. 142, Nonacquies., 1975-1 C.B. 3.

282.31 Jointly owned property; Michigan; surviving tenant's basis. Income producing property that had been held by a husband and wife as tenants by the entirety, then acquired by the wife as surviving tenant but considered to have belonged to the husband under Michigan law and included in his gross estate, should not have its basis reduced for depreciation taken in joint returns. This ruling is not applicable for taxable years ended before 1975 where detrimental to either the husband or wife. §§1.1014-6 301.7805-1. (Secs. 1014, 7805; '86 Code.)
Rev. Rul. 75-142, 1975-1 C.B. 256.

282.32 Liability of spouse for decedent's unpaid taxes. Unpaid income taxes owed by a decedent who had filed no returns for several years are not the personal liability of the decedent's spouse who had no income for those years. Nor is the spouse liable for such taxes as transferee of jointly-owned assets that passed outside the probate estate directly to the spouse and that, under state law, were not subject to the claims of decedent's creditors. No lien upon such assets arises under section 6321 on account of unpaid taxes for which no assessments were made prior to decedent's death. §§1.6013-4, 301.6901-1. (Secs. 6013, 6322, 6901; '86 Code.)
Rev. Rul. 78-299, 1978-2 C.B. 304.

282.33 Lien on family home; homestead interest of nondelinquent spouse. A federal district court may order the forced sale of the entire property in which a delinquent taxpayer had an interest at the time the indebtedness arose, but in which the taxpayer's spouse, who does not owe any of the indebtedness, also has a separate "homestead" interest. (Secs. 6321, 7403; '86 Code.)
Rodgers, 461 U.S., Ct. D. 2019, 1983-2 C.B. 253.

282.34 Life estate transferred from wife to husband. The taxpayer in 1923 became sole income beneficiary for life under a trust of which her husband was the trustee. The corpus of the trust was comprised of corporate stock. In 1950 the taxpayer, pursuant to a written agreement, transferred all her right title and interest under the trust to her husband. The agreement provided that the taxpayer was to receive stated amounts each year from her husband for the remainder of her life. *Held*, the conveyance constituted an actual transfer of the taxpayer's complete ownership of her life interest and, consequently, the corporate dividends received by the trust were nontaxable as ordinary income to the taxpayer. (Sec. 22(a), '39 Code; Sec. 61, '86 Code.)
Gladys Cheesman Evans, 30 T.C. 798, Acq., 1958-2 C.B. 5.

282.35 Marital status; effect of annulment or divorce and remarriage. Taxpayers, who were married during a taxable year and filed a joint return for that year, and whose marriage was annulled in the year following their marriage were single individuals at the close of their taxable year and must file amended returns. Other taxpayers, who had been married for 10 years, who determined that for income tax purposes it would be advantageous for them to be unmarried at the close of their taxable year, obtained a divorce in a foreign jurisdiction at the end of that year, and intended to and did remarry each other in the first month of the following year, were remarried at the close of their taxable year. §§1.143-1, 1.6013-4. (Secs. 143, 6013; '86 Code.)
Rev. Rul. 76-255, 1976-2 C.B. 40.

282.36 Medical care insurance premiums. During 1967, a husband and wife paid \$400 and \$200, respectively, for medical care insurance.

They filed a joint return for that year, claiming the total amount as a medical expense deduction. For taxable years beginning after December 31, 1966, the husband and wife are entitled to deduct only \$150 of such payments, without regard to the 3 percent limitation. However, if they file separate returns, the husband may deduct \$150 of the payments made by him without regard to the 3 percent limitation and the wife may deduct \$100 of the payments made by her. §1.213-1. (Sec. 213, '86 Code.)
Rev. Rul. 68-102, 1968-1 C.B. 90.

282.37 Net operating loss after spouse's death; carryback. When there is a change in marital status because of the death of one of the parties to the marriage, and in a succeeding year the survivor sustains a net operating loss, the loss may be carried back only to that portion of the income reported on a joint return previously filed with the decedent, which is vested in the survivor. After deducting the net operating loss in the carryback year, the joint rates are applicable to the resulting taxable income. Applicable to community and noncommunity property States. Rev. Rul. 60-216 amplified. §§1.2-1, 1.172-7. (Secs. 2, 172; '86 Code.)
Rev. Rul. 65-140, 1965-1 C.B. 127.

282.38 Partnership; recognition. The fact that a husband and wife partnership is invalid under state law does not necessarily prevent recognition of such partnership for Federal tax purposes. Conversely, the fact that such partnership is valid under state law, does not necessarily require recognition of such partnership for Federal tax purposes. §1.704-1. (Sec. 704, '86 Code.)
Rev. Rul. 58-243, 1958-1 C.B. 255.

282.39 Partnership losses. In applying section 130 of the 1939 Code, where the facts establish that a husband and wife are partners in the same trade or business, their losses from that trade or business should be considered separately even though they file joint returns. §39.130-1. (Sec. 130, '39 Code; Sec. 270, '86 Code.)
Rev. Rul. 54-178, 1954-1 C.B. 128.

282.40 Returns; wife acting for incompetent husband. An income tax return, although not accompanied by a prescribed power of attorney, is a valid return when signed and filed by a wife on behalf of her mentally incompetent husband while she is managing his business prior to the appointment of a legal guardian. Modified by Rev. Rul. 58-267 with respect to self-employment tax. (Sec. 6012, '86 Code.)
Rev. Rul. 56-22, 1956-1 C.B. 558.

282.41 Separate residences sold; replacement property. The nonrecognition provisions apply to gains realized by a husband and wife from the sales of residences that had been their separate principal residences prior to their marriage and their timely purchase of a new principal residence for more than the combined adjusted sales prices, with each contributing one-half of the purchase price, and taking joint title to the property. §1.1034-1. (Sec. 1034, '86 Code.)
Rev. Rul. 75-238, 1975-1 C.B. 257.

282.42 Separate returns; capital loss carryover from 1969. A married taxpayer filing a separate return for 1970 may deduct up to \$1,000 of a long-term capital loss carryover from the taxable year 1969. §1.1211-1. (Sec. 1211, '86 Code.)
Rev. Rul. 72-105, 1972-1 C.B. 228.

282.43 Separate returns; casualty loss. The deduction for a casualty loss to the residence owned by a husband and wife as tenants by the entirety may be reported one-half on each of their separate income tax returns, but neither may

report the total. I.T. 3304 revoked. §§1.165-7, 301.7805-1. (Secs. 165, 7805; '86 Code.)
Rev. Rul. 75-347, 1975-2 C.B. 70.

282.44 Separate returns; intent to file jointly. Separate Forms 1040 were prepared for the taxpayer and her husband but their separate and community property incomes and leases were combined to obtain the benefits of a joint return; each form, to be understood, required reference to the other. The taxpayer and her husband, not understanding "separate" and "joint" returns, signed their respective forms. *Held*, although the procedure was incorrect, the intent was to achieve the benefit of filing jointly and the returns constituted a joint return. (Sec. 51(b), '39 Code; Sec. 6013, '86 Code.)
Zabelle Emerzian, 20 T.C. 825, Acq., 1954-1 C.B. 4.

282.45 Separate returns; medical expenses. Amounts paid for medical care of a taxpayer, his wife and their children, all residing in a noncommunity property state, with funds deposited in a joint checking account in which the taxpayer and his wife apparently have an equal interest are, in the absence of competent evidence to the contrary, presumed to be paid equally by the husband and wife for purposes of computing their medical expense deductions when filing separate income tax returns. §1.213-1. (Sec. 213, '86 Code.)
Rev. Rul. 59-66, 1959-1 C.B. 60.

282.46 Separate returns; prepared and executed by District Director. Separate delinquent income tax returns prepared and executed for a husband and wife by the District Director, precludes the filing of joint returns for the same years after the prescribed period of limitation has expired. §§1.6013-2, 301.6020-1. (Secs. 6013, 6020; '86 Code.)
Rev. Rul. 70-632, 1970-2 C.B. 286.

282.47 Separate returns; rent paid by husband for business use of joint property. Rent paid by a husband to his wife for the use of their jointly-owned Wisconsin real estate that the husband used in his business is deductible as a business expense on the husband's separate income tax return. I.T. 3901 superseded. §1.162-11. (Sec. 162, '86 Code.)
Rev. Rul. 74-209, 1974-1 C.B. 46.

282.48 Separate returns; standard deduction. Where one spouse has no taxable gross income because of the exclusion provided by section 931(a), the other spouse, who has no income excludable under section 931 and who elects to file a separate return may claim the standard deduction, or, if eligible, may use the optional tax method. §§1.1-1, 1.3-1, 1.4-3, 1.141-1, 1.142-1. (Secs. 1, 3, 4, 141, 142; '86 Code.)
Rev. Rul. 59-82, 1959-1 C.B. 43.

282.49 Separate returns; State income tax deduction. A husband and wife filing a joint State income tax return on which they are jointly and severally liable for the tax may deduct on separate Federal Tax returns the portion of such tax each actually paid. G.C.M. 17570 superseded. §1.164-1. (Sec. 164, '86 Code.)
Rev. Rul. 72-79, 1972-1 C.B. 51.

282.50 Separate returns; taxes and interest; jointly owned property. A husband and wife filing separate returns may deduct only the amount of tax and interest actually paid by each on mortgaged property held as tenants by the entirety. G.C.M. 15530 superseded. §§1.163-1, 1.164-1. (Secs. 163, 164; '86 Code.)
Rev. Rul. 71-268, 1971-1 C.B. 58.

282.51 Separation; residence sold; replacement property. The nonrecognition provisions of section 1034(a) apply separately to the gains realized by a husband and wife from the sale of their

principal residence where they have agreed to live apart and each purchased and occupied a separate replacement residence. §1.1034-1. (Sec. 1034, '86 Code.)

Rev. Rul. 74-250, 1974-1 C.B. 202.

282.52 State income tax deduction; joint and separate returns. The deductibility, for Federal income tax purposes, of State income taxes paid by married taxpayers both using the cash receipts and disbursements method of accounting and itemizing their deductions, who file (1) separate State and Federal income tax returns, (2) separate State returns but a joint Federal return, or (3) a joint State return but separate Federal returns, is discussed. I.T. 2741 superseded. Clarified by Rev. Rul. 75-47. §1.164-1. (Sec. 164, '86 Code.)

Rev. Rul. 74-486, 1974-2 C.B. 56.

282.53 State income tax deduction; joint returns. State income taxes imposed upon a married taxpayer and paid during the taxable year are deductible on a joint Federal return regardless of which spouse actually paid the taxes. Rev. Rul. 74-486 clarified. §1.164-1. (Sec. 164, '86 Code.)

Rev. Rul. 75-47, 1975-1 C.B. 62.