

NONOBLIGATED SPOUSE FORMS

House Bill 5333 (Substitute H-1) First Analysis (11-29-01)

Sponsor: Rep. Bob Brown
Committee: Tax Policy

THE APPARENT PROBLEM:

The nonobligated spouse allocation form is a form that can be filed with the Department of Treasury when there is a claim for a refund by joint filers and one of the spouses has an outstanding liability or obligation (such as taxes owed or child support in arrears) that allows the department to intercept the refund to satisfy the obligation. The department is required to notify the joint taxpayers of the interception of all or a portion of the refund and send a special form for the spouse who does not have the outstanding obligation (the "nonobligated spouse" or innocent spouse) to use to claim his or her share of the refund. Under the act, a nonobligated spouse must file the form with the department not more than 30 days after receiving the notice.

The report issued in October by the Subcommittee on Tax Simplification of the House Tax Policy Committee made several recommendations to assist taxpayers in this situation. The subcommittee noted that joint filers who know they will receive a notice and form from the state must nevertheless file their tax return and wait for the notification. It would make sense, the subcommittee report said, to allow the nonobligated spouse to file the appropriate form at the same time as the original tax return. Further, the current 30-day requirement is not sufficient, particularly for spouses who were previously unaware of the requirement. Reportedly, the form is not always easy to understand. The subcommittee recommended that 60 days be allowed instead to return the form. The subcommittee further recommended that, in the near future, taxpayers be afforded the convenience of filing the form electronically.

THE CONTENT OF THE BILL:

The bill would amend the Revenue Act to change provisions dealing with the filing of a nonobligated spouse allocation form. For tax years beginning after December 31, 2001, it would 1) permit the form to be filed either at the same time the joint return was filed or, as now, after receiving notice from the department; and 2) allow the nonobligated spouse 60 days after receiving the notice to file the form. The

bill would also, beginning January 1, 2005, require the department to allow the form to be filed electronically.

MCL 205.30a

FISCAL IMPLICATIONS:

The bill would have no fiscal implications, according to the House Fiscal Agency. (HFA fiscal note dated 11-27-01)

ARGUMENTS:

For:

The bill would enact a recommendation from the Subcommittee on Tax Simplification to make it easier for taxpayers to comply with requirements for submitting a nonobligated spouse allocation form with the Department of Treasury. The state is authorized to intercept tax refunds to satisfy certain kinds of outstanding obligations, such as taxes owed and child support in arrears. In the case of a joint return filed by one spouse with such an outstanding obligation and one without such an obligation (a so-called nonobligated spouse), the nonobligated spouse can later file a special form to claim a portion of the refund. The bill would allow this form to be filed at the same time as the original return so as to speed up the refund. It also would give the nonobligated spouse more time to send the form in if he or she chooses to wait until receiving notification from the department. Finally, it would require the Department of Treasury to allow this form to be filed electronically by 2005.

POSITIONS:

There are no positions at present. (11-28-01)

Analyst: C. Couch

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