

106TH CONGRESS
2D SESSION

H. R. 5171

To amend the Internal Revenue Code of 1986 to permit a husband and wife to file a combined return to which separate tax rates apply.

IN THE HOUSE OF REPRESENTATIVES

Mr. POMEROY introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to permit a husband and wife to file a combined return to which separate tax rates apply.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Marriage Penalty Re-
5 lief Act”.

6 **SEC. 2. COMBINED RETURN TO WHICH UNMARRIED RATES**
7 **APPLY.**

8 (a) IN GENERAL.—Subpart B of part II of sub-
9 chapter A of chapter 61 of the Internal Revenue Code of

1 1986 (relating to income tax returns) is amended by in-
2 serting after section 6013 the following new section:

3 **“SEC. 6013A. COMBINED RETURN WITH SEPARATE RATES.**

4 “(a) GENERAL RULE.—A husband and wife may
5 make a combined return of income taxes under subtitle
6 A under which—

7 “(1) a separate taxable income is determined
8 for each spouse by applying the rules provided in
9 this section, and

10 “(2) the tax imposed by section 1 is the aggre-
11 gate amount resulting from applying the separate
12 rates set forth in section 1(c) to each such taxable
13 income.

14 “(b) TREATMENT OF INCOME.—For purposes of this
15 section—

16 “(1) earned income (within the meaning of sec-
17 tion 911(d)), and any income received as a pension
18 or annuity which arises from an employer-employee
19 relationship, shall be treated as the income of the
20 spouse who rendered the services,

21 “(2) income from property shall be divided be-
22 tween the spouses in accordance with their respec-
23 tive ownership rights in such property (equally in
24 the case of property held jointly by the spouses), and

1 “(3) any exclusion from income shall be allow-
2 able to the spouse with respect to whom the income
3 would be otherwise includible.

4 “(c) TREATMENT OF DEDUCTIONS.—For purposes of
5 this section—

6 “(1) except as otherwise provided in this sub-
7 section, the deductions described in section 62(a)
8 shall be allowed to the spouse treated as having the
9 income to which such deductions relate,

10 “(2) the deductions allowable by section 151(b)
11 (relating to personal exemptions for taxpayer and
12 spouse) shall be determined by allocating 1 personal
13 exemption to each spouse,

14 “(3) section 63 shall be applied as if such
15 spouses were not married, except that the election
16 whether or not to itemize deductions shall be made
17 jointly by both spouses and apply to each, and

18 “(4) each spouse’s share of all other deductions
19 shall be determined by multiplying the aggregate
20 amount thereof by the fraction—

21 “(A) the numerator of which is such
22 spouse’s gross income, and

23 “(B) the denominator of which is the com-
24 bined gross incomes of the 2 spouses.

1 Any fraction determined under paragraph (4) shall be
2 rounded to the nearest percentage point.

3 “(d) TREATMENT OF CREDITS.—For purposes of this
4 section—

5 “(1) IN GENERAL.—Except as provided in para-
6 graph (2), each spouse’s share of credits allowed to
7 both spouses shall be determined by multiplying the
8 aggregate amount of the credits by the fraction de-
9 termined under subsection (c)(4).

10 “(2) EARNED INCOME CREDIT.—The earned in-
11 come credit under section 32 shall be determined as
12 if each spouse were a separate taxpayer, except
13 that—

14 “(A) the earned income and the modified
15 adjusted gross income of each spouse shall be
16 determined under the rules of subsections (b),
17 (c), and (e), and

18 “(B) qualifying children shall be allocated
19 between spouses proportionate to the earned in-
20 come of each spouse (rounded to the nearest
21 whole number).

22 “(e) SPECIAL RULES REGARDING INCOME LIMITA-
23 TIONS.—

24 “(1) EXCLUSIONS AND DEDUCTIONS.—For pur-
25 poses of making a determination under subsection

1 (b) or (c), any eligibility limitation with respect to
2 each spouse shall be determined by taking into ac-
3 count the limitation applicable to a single individual.

4 “(2) CREDITS.—For purposes of making a de-
5 termination under subsection (d)(1), in no event
6 shall an eligibility limitation for any credit allowable
7 to both spouses be less than twice such limitation
8 applicable to a single individual.

9 “(f) SPECIAL RULES FOR ALTERNATIVE MINIMUM
10 TAX.—If a husband and wife elect the application of this
11 section—

12 “(1) the tax imposed by section 55 shall be
13 computed separately for each spouse, and

14 “(2) for purposes of applying section 55—

15 “(A) the rules under this section for allo-
16 cating items of income, deduction, and credit
17 shall apply, and

18 “(B) the exemption amount for each
19 spouse shall be the amount determined under
20 section 55(d)(1)(B).

21 “(g) TREATMENT AS JOINT RETURN.—Except as
22 otherwise provided in this section or in the regulations
23 prescribed hereunder, for purposes of this title (other than
24 sections 1 and 63(c)) a combined return under this section
25 shall be treated as a joint return.

1 “(h) LIMITATIONS.—

2 “(1) PHASE-IN OF BENEFIT.—

3 “(A) IN GENERAL.—In the case of any
 4 taxable year beginning before January 1, 2004,
 5 the tax imposed by section 1 or 55 shall in no
 6 event be less than the sum of—

7 “(i) the tax determined after the ap-
 8 plication of this section, plus

9 “(ii) the applicable percentage of the
 10 excess of—

11 “(I) the tax determined without
 12 the application of this section, over

13 “(II) the amount determined
 14 under clause (i).

15 “(B) APPLICABLE PERCENTAGE.—For
 16 purposes of subparagraph (A), the applicable
 17 percentage shall be determined in accordance
 18 with the following table:

“For taxable years beginning in:	The applicable percentage is:
2002	50
2003	10.

19 “(2) LIMITATION OF BENEFIT BASED ON COM-
 20 BINED ADJUSTED GROSS INCOME.—With respect to
 21 spouses electing the treatment of this section for any
 22 taxable year, the tax under section 1 or 55 shall be
 23 increased by an amount which bears the same ratio

1 to the excess of the tax determined without the ap-
2 plication of this section over the tax determined
3 after the application of this section as the ratio (but
4 not over 100 percent) of the excess of the combined
5 adjusted gross income of the spouses over \$100,000
6 bears to \$50,000.

7 “(i) REGULATIONS.—The Secretary shall prescribe
8 such regulations as may be necessary or appropriate to
9 carry out this section.”.

10 (b) UNMARRIED RATE MADE APPLICABLE.—So
11 much of subsection (c) of section 1 of the Internal Rev-
12 enue Code of 1986 as precedes the table is amended to
13 read as follows:

14 “(c) SEPARATE OR UNMARRIED RETURN RATE.—
15 There is hereby imposed on the taxable income of every
16 individual (other than a married individual (as defined in
17 section 7703) filing a return which is not a combined re-
18 turn under section 6013A, a surviving spouse as defined
19 in section 2(a), or a head of household as defined in sec-
20 tion 2(b)) a tax determined in accordance with the fol-
21 lowing table:”.

22 (c) PENALTY FOR SUBSTANTIAL UNDERSTATEMENT
23 OF INCOME FROM PROPERTY.—Section 6662 of the Inter-
24 nal Revenue Code of 1986 (relating to imposition of accu-
25 racy-related penalty) is amended—

1 (1) by adding at the end of subsection (b) the
2 following:

3 “(6) Any substantial understatement of income
4 from property under section 6013A.”, and

5 (2) by adding at the end the following new sub-
6 section:

7 “(i) SUBSTANTIAL UNDERSTATEMENT OF INCOME
8 FROM PROPERTY UNDER SECTION 6013A.—For pur-
9 poses of this section, there is a substantial understatement
10 of income from property under section 6013A if—

11 “(1) the spouses electing the treatment of such
12 section for any taxable year transfer property from
13 1 spouse to the other spouse in such year,

14 “(2) such transfer results in reduced tax liabil-
15 ity under such section, and

16 “(3) the significant purpose of such transfer is
17 the avoidance or evasion of Federal income tax.”.

18 (d) PROTECTION OF SOCIAL SECURITY AND MEDI-
19 CARE TRUST FUNDS.—

20 (1) IN GENERAL.—Nothing in this section shall
21 be construed to alter or amend the Social Security
22 Act (or any regulation promulgated under that Act).

23 (2) TRANSFERS.—

24 (A) ESTIMATE OF SECRETARY.—The Sec-
25 retary of the Treasury shall annually estimate

1 the impact that the enactment of this section
2 has on the income and balances of the trust
3 funds established under sections 201 and 1817
4 of the Social Security Act (42 U.S.C. 401 and
5 1395i).

6 (B) TRANSFER OF FUNDS.—If, under sub-
7 paragraph (A), the Secretary of the Treasury
8 estimates that the enactment of this section has
9 a negative impact on the income and balances
10 of such trust funds, the Secretary shall trans-
11 fer, not less frequently than quarterly, from the
12 general revenues of the Federal Government an
13 amount sufficient so as to ensure that the in-
14 come and balances of such trust funds are not
15 reduced as a result of the enactment of this sec-
16 tion.

17 (e) CLERICAL AMENDMENT.—The table of sections
18 for subpart B of part II of subchapter A of chapter 61
19 of the Internal Revenue Code of 1986 is amended by in-
20 serting after the item relating to section 6013 the fol-
21 lowing:

“Sec. 6013A. Combined return with separate rates.”.

22 (f) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 December 31, 2001.

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