

Policy & Background: Married Filing Separately (MFS)

Background

Married taxpayers may elect not to file their returns jointly (Married Filing Jointly or MFJ), but instead as **Married Filing Separately** (MFS). By filing separately, a married couple keeps their income and tax liabilities separate from the other.

There are distinct disadvantages to the MFS filing status. Among these are:

- A higher tax rate generally;
- A standard deduction which is half the amount of a joint return;
- No eligibility for Earned Income Tax Credit;
- No eligibility for the Child and Dependent Care Credit;
- No eligibility for Education Credits or the student loan interest deduction;
- No eligibility for Premium Tax Credits to help pay for Affordable Care Act (ACA) insurance plans;
- Reduced eligibility for the Child Tax Credit and Retirement Savings Credit; and
- No ability to claim the standard deduction if the spouse itemizes deductions, and vice-versa.

Certain states have laws about community property defining how they expect MFS couples to share, or allocate income. In these so-called community property states, all earnings of either married spouse generally are considered “joint”, even if deposited into separate accounts.

Texas is a community property state. All family income is owned equally by both spouses. In order to file using the Married Filing Separately (MFS) filing status, total income for the year must be divided, or allocated, between the spouses on their tax returns. The allocation is done on **Form 8958**, *Allocation of Tax Amounts Between Certain Individuals in Community Property States*.

Note: The other community property states are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Washington, and Wisconsin.

Foundation Communities Policy

FC will prepare an MFS return only under certain circumstances (below). In these cases, the MFS return prepared by FC will report only the taxpayer’s income.

- If the taxpayer lived with a spouse for **ANY** part of the tax year, **only in cases of domestic abuse or spousal abandonment** (i.e. the client does not know about, does not have, and cannot get the amount of their spouse’s income). The taxpayer cannot be living with their spouse at the time of filing the tax return.
- If the taxpayer **DID NOT** live with a spouse for any part of the tax year and did not share income.
- If the spouse is a nonresident alien (i.e. lives in another country and isn’t a US citizen or Lawful Permanent Resident)

- If the taxpayer did not live in a community property state.

Because FC will not allocate community property between spouses, all MFS returns that include **Form 8958, Allocation of Tax Amounts Between Certain Individuals in Community Property States** must be modified to remove the allocation required by TaxSlayer to complete the return and any other inaccurate information contained on the return. All MFS returns prepared by FC will be **Paper** returns to be mailed to the IRS by the client, even those prepared for clients residing in non-community property states.

See **Filing Status Options for Married Taxpayers** on CTC Resources for more information.

How to Assist Tax Clients

Determine the correct filing status of the taxpayer. Refer to these documents on CTC Resources:

- **Filing Status Options for Married Taxpayers** – in English or Spanish
- **About Marriage and Legal Separation for Texas Clients**
- **Filing Status Options for Married Taxpayers** – in English and Spanish

For detailed instructions on preparing an MFS return in TaxSlayer and making all required modifications to the completed return, see **Preparing MFS Returns in TaxSlayer** on CTC Resources.