

105TH CONGRESS  
2D SESSION

# S. 1682

To amend the Internal Revenue Code of 1986 to repeal joint and several liability of spouses on joint returns of Federal income tax, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 1998

Mr. D'AMATO (for himself, Mr. GRAHAM, Mr. ABRAHAM, Mr. MOYNIHAN, Mr. BIDEN, and Mr. INHOFE) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to repeal joint and several liability of spouses on joint returns of Federal income tax, and for other purposes.

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. REPEAL OF JOINT AND SEVERAL LIABILITY ON**

4           **JOINT RETURNS.**

5       (a) IN GENERAL.—Paragraph (3) of section 6013(d)

6 of the Internal Revenue Code of 1986 (relating to special

7 rules) is amended to read as follows:

1           “(3) if a joint return is made, the tax shall be  
2        computed on the aggregate income, and liability for  
3        tax shall be determined under subsection (e).”

4           (b) DETERMINATION OF PROPORTIONAL OR SEPA-  
5        RATE LIABILITY FOR PAYMENT OF TAX WITH RESPECT  
6        TO JOINT RETURNS.—Section 6013(e) of the Internal  
7        Revenue Code of 1986 (relating to spouse relieved of liabil-  
8        ity in certain cases) is amended to read as follows:

9           “(e) LIABILITY FOR PAYMENT OF TAX WITH RE-  
10        SPECT TO JOINT RETURNS.—When spouses elect to file  
11        a joint return for a taxable year, the liability for tax with  
12        respect to that year shall be determined as follows:

13           “(1) TAX REPORTED ON THE RETURN.—The li-  
14        ability for the tax computed with respect to income  
15        and deductions as reported on the return shall be in  
16        proportion to the tax liability which each spouse  
17        would have incurred if each had reported his or her  
18        apportionable items on a separate return of a mar-  
19        ried individual, provided that a payment by one  
20        spouse in excess of such spouse’s proportionate  
21        share of liability for the tax reported on the return  
22        shall not be refunded unless there is an overpayment  
23        with respect to the return.

1                   “(2) LIABILITY FOR DEFICIENCIES IMPOSED ON  
2                   THE RESPONSIBLE SPOUSE.—Liability for a defi-  
3                   ciency shall be imposed as follows:

4                   “(A) With respect to an item of income, on  
5                   the individual spouse to whom the item is  
6                   apportionable.

7                   “(B) With respect to an item of deduction,  
8                   on the individual spouse to whom the item is  
9                   apportionable to the extent that income appor-  
10                  tioned to such spouse was offset by the deduc-  
11                  tion.

12                  Liability for deficiency in excess of the amount allo-  
13                  cated under subparagraph (B) shall be imposed on  
14                  the other spouse.

15                  “(3) APPORTIONABLE ITEMS.—A taxpayer’s  
16                  apportionable items shall be the taxpayer’s share of  
17                  the income and deductions reportable on the joint  
18                  return of the taxpayer and his spouse, apportioned  
19                  in the same manner as income and deductions are  
20                  apportioned under section 861 (determination of in-  
21                  come from sources within the United States). The  
22                  Secretary may prescribe regulations under which  
23                  simplified apportionment methods are authorized in  
24                  making these determinations.”

1 **SEC. 2. COMMUNITY PROPERTY LAWS DISREGARDED IN**  
2 **DETERMINING TAX LIABILITY.**

3 (a) IN GENERAL.—Section 66 of the Internal Reve-  
4 nue Code of 1986 (relating to treatment of community in-  
5 come) is amended to read as follows:

6 **“SEC. 66. COMMUNITY PROPERTY LAWS.**

7 “(a) TAX LIABILITY.—For the purpose of determin-  
8 ing the tax liability of an individual under this chapter,  
9 community property laws shall be disregarded.

10 “(b) ATTRIBUTION OF INCOME AND DEDUCTIONS  
11 UNDER COMMUNITY PROPERTY LAW.—

12 “(1) IN GENERAL.—For purposes of chapter 1,  
13 the income and deductions of a taxpayer and his  
14 spouse under community property law shall be allo-  
15 cated between the spouses under rules similar to the  
16 allocation rules of section 879(a) (relating to treat-  
17 ment of community income of nonresident alien indi-  
18 viduals).

19 “(2) INCOME DERIVED FROM PROPERTY ALLO-  
20 CATED ACCORDING TO TITLE.—Notwithstanding  
21 paragraph (1), community income which is derived  
22 from property shall be allocated in the same manner  
23 as the spouses hold title to such property and not  
24 as provided in paragraph (4) of section 879(a).”

25 (b) CONFORMING AMENDMENT.—The table of sec-  
26 tions for part I of subchapter B of chapter 1 of the Inter-

1   nal Revenue Code of 1986 is amended by striking the item  
2   relating to section 66 and inserting:

“Sec. 66. Community property laws.”

3   **SEC. 3. EFFECTIVE DATE.**

4       The amendments made by this Act shall apply to tax-  
5   able years beginning before, on, or after the date of the  
6   enactment of this Act.

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