

IRC Section 6013(f)

Election by Spouse of Individual in Missing Status to File a Joint Return

Overview

Generally, to file a joint return both spouses must file and sign the return. A special rule applies, however, to spouses of persons in the military or government employees who are in a missing status, as defined in §6013(f)(3), as a result of service in a combat zone. Section 6013(f) allows the spouse, who is otherwise entitled to file a joint return, to elect to file a joint return for any taxable year which begins on or before the day which is two years after the date of termination of combatant activities in the particular combat zone. In the case of an individual missing as a result of service in the combat zone designated for purposes of the Vietnam conflict, the election may be made for any year that the individual is in missing status.

An election remains valid even if it is subsequently determined that the individual died before the beginning of the tax year. The income tax liability of such individual, his spouse and his estate shall be determined as if the missing person were alive throughout the tax year except for purposes of forgiving deceased serviceperson's taxes.

The election shall apply to the taxable year for which made. Once made, the election may be revoked by either spouse on or before the due date, including extensions for the taxable year. An executor or administrator of the individual's estate may revoke the election by making, within one year after the last day prescribed by law for filing the return of the surviving spouse, a separate return for the taxable year of the decedent with respect to which the joint return was made.

When to File

The election is made by filing a joint return no later than the due date, including extensions, of the taxpayer's return for such year. No regulations have been issued regarding the manner of making the election, however, a statement should be attached to the return stating that an election is being made pursuant to §6013(f).

Where to File

The election statement is attached to the taxpayer's timely filed income tax return, which is mailed to the designated Internal Revenue Service Center.

Index

1. Code Section: 6013
2. Topic:
3. Return Type: 1040

Authorities

IRC §6013(f)