



COMMONWEALTH of VIRGINIA

Department of Taxation

Filing Instructions  
(Check Proper Box)

Richmond, Virginia 23288-1118

MEMORANDUM

TO: Molly Thurston, Supervisor  
Error Resolution Unit  
DATE: June 24, 1988  
RE: Head of Household Filing Status

- Tax Type
- Public Document
- Filing Letter
- Central Files
- 58-1130
- Compromises

Subject: Ind  
Filing Status  
 Subject: Ind (New)  
Head of Household  
 Subject: \_\_\_\_\_  
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This will reply to your memorandum of June 1, 1988, in which you wish to determine the Virginia filing status of certain individuals who claim the head of household filing status for federal purposes.

FEDERAL LAW

Federal law generally limits the head of household filing status to individuals who are not married or were considered not married at the end of the taxable year and paid more than half the cost of keeping up a home that was the principal home for more than half the year for themselves and certain dependents (child, grandchild, other relative, etc.). For purposes of the head of household filing status, § 2(c) of the Internal Revenue Code provides that "an individual shall be treated as not married at the close of the taxable year if such individual is so treated under the provisions of section 7703(b)."

IRC § 7703(b) in turn provides that a married individual shall not be considered as married if certain tests are met. Generally, one must maintain a household for a child, provide over 1/2 of the costs of the household, and the spouse must not be a member of the household during the last 6 months of the taxable year.

VIRGINIA FILING STATUS

Virginia Regulation 630-2-341 (C) provides, "In determining whether two individuals are husband and wife for income tax purposes, the determination of marital status for federal income tax purposes will similarly control the determination of filing status for state income tax purposes." Since for federal income tax purposes an individual must be either not married or considered not married at the end of the taxable year to qualify to use the federal head of household filing status, such an individual must file their Virginia return using the single filing status. Such an individual may use the single filing status on his Virginia return, even though his spouse uses the married, filing separate filing status.

Please let us know if you have any further questions on this issue.

*Danny*  
Danny M. Payne, Director  
Tax Policy Division

*This may not be the solution to your problem. Call me if you have questions.*