

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 903
HOUSE BILL 1403

AN ACT TO PROVIDE FOR THE FILING OF CONSOLIDATED RETURNS BY
HUSBAND AND WIFE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-152 is hereby amended by:

(a) Redesignating subsections (b), (c) and (d) thereof as subsections (c), (d) and (e) respectively.

(b) Inserting a new subsection (b) to read as follows:

"(b) A joint return may not be filed by a husband and wife; however, a husband and wife may, at their election, file their separate income tax returns on a single form, and a husband and wife so filing shall be deemed to have expressly agreed that: (1) If the sum of the payments by either spouse, including withheld and estimated taxes, exceeds the amount of the tax for which such spouse is separately liable, the excess may be applied by the Department of Revenue to the credit of the other spouse if the sum of the payments by such other spouse, including withholding and estimated taxes, is less than the amount of the tax for which such other spouse is separately liable. (2) If the sum of the payments made by both spouses with respect to the taxes for which they are separately liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses or if either is deceased, to the survivor."

Sec. 2. G.S. 105-157(a) is hereby amended by changing the period at the end of subsection (a) thereof to a semicolon and adding the following:

"; provided, that when a husband and wife have elected under G.S. 105-152(b) to file their separate income tax returns on a single form and the amount for which one spouse is separately liable has been reduced by credit for overpayment of tax by the other spouse as provided in that subsection, only the amount in excess of such credit shall be payable."

Sec. 3. G.S. 105-163.16 is hereby amended by adding a new subsection at the end thereof to be designated as subsection (d) and to read as follows:

"(d) When a husband and wife have elected under G.S. 105-152(b) to file their separate income tax returns on a single form and a refund for overpayment of tax is made payable to both spouses as provided in that subsection, the provisions of this section shall apply to such refund."

Sec. 4. G.S. 105-259 is hereby amended by changing the period at the end of the first paragraph thereof to a semicolon and adding the following:

"; provided, that when an election is made by a husband and wife under G.S. 105-152(b) to file their separate returns on a single form, any information given to one spouse concerning the income or income tax of the other spouse reported or reportable on such single return shall not be deemed to be in violation of the provisions of this paragraph."

Sec. 5. G.S. 105-266 is hereby amended by adding a new sentence at the end thereof to read as follows:

"When a husband and wife have elected under G.S. 105-152(b) to file their separate income tax returns on a single form and a refund for overpayment of tax is made payable to both

spouses as provided in that subsection, the provisions of this section shall apply to such refund."

Sec. 6. This act shall become effective for all taxable years beginning on and after January 1, 1974.

In the General Assembly read three times and ratified, this the 28th day of February, 1974.