

# Married persons filing separate returns



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[www.oregon.gov/DOR](http://www.oregon.gov/DOR)

If you file a joint federal return, you may file separate Oregon returns if you and your spouse do not have the same residency status. If you choose to file separately for Oregon, you must use the married filing separately filing status. You may not file as head of household (ORS 316.122).

- **Full-year resident and part-year resident.** If you file separate Oregon returns, the full-year resident will file Form 40 and the part-year resident will file Form 40P. If you choose to file a joint return for Oregon, file Form 40P.

The full-year resident will report all income from all sources for the year. The part-year resident will report all income while a resident and all Oregon-source income while a nonresident.

- **Full-year resident and nonresident.** If you file separate Oregon returns, the full-year resident will file Form 40 and the nonresident will file Form 40N. If you choose to file a joint return for Oregon, file Form 40N.

The full-year resident will report all income from all sources for the year. The nonresident will report only Oregon-source income.

- **Nonresident and part-year resident.** If you file separate Oregon returns, the nonresident will file Form 40N and the part-year resident will file Form 40P. If you choose to file a joint return for Oregon, file Form 40N.

The nonresident will report only Oregon-source income. The part-year resident will report all income while a resident and Oregon-source income while a nonresident.

## Filing information

If you file separate returns for Oregon, you and your spouse each should report your own share of income and deductions. Also, report your share of any Oregon additions or subtractions. See “**federal tax**” explained on the next page.

If you are a full-year resident, file Oregon Form 40 and report your share of federal adjusted gross income (AGI).

If you are a nonresident or part-year resident, file Oregon Form 40N or Form 40P, respectively. Report

only your income. Use the following rules to file under this exception.

**Your percentage.** Use the following formula to compute your share of certain deductions:

$$\frac{\text{Your share of federal AGI}}{\text{Joint federal AGI}} = \text{Your percentage (not to exceed 100\%)}$$

If your share is less than -0-, your percentage is -0-.

**Federal tax.** Each spouse may subtract a portion of his or her joint federal tax liability.

Multiply the joint federal tax liability (after all credits except the earned income credit) by your percentage to determine your federal tax subtraction. Each spouse is limited to a maximum subtraction of \$2,750.

**Itemized deductions.** Multiply the itemized deductions by your percentage to compute your share. Or, you may itemize separately if you can clearly determine each spouse’s deductions. Remember to use “Net Oregon itemized deductions.”

**Standard deduction.** The Oregon standard deduction is \$1,825 for each spouse.

Each spouse is allowed an additional \$1,000 if:

- He or she is age 65 or older.
- He or she is blind.

It is possible for each spouse to have up to \$2,000 in additional standard deductions for age and blindness, plus the regular \$1,825 standard deduction.

### Exceptions:

- You cannot claim the standard deduction if your spouse claims itemized deductions. In this case, your standard deduction is zero, and you should itemize deductions.
- You cannot claim the standard deduction if you are a nonresident alien. You may only claim itemized deductions.

**Exemptions.** You cannot prorate exemptions. You may claim exemptions for yourself and any dependents allowed on your federal return. You cannot claim an exemption for the same dependent claimed on your spouse’s return.

**How to file your separate return for Oregon only.**

Write your Social Security number in the heading of the return. Do not write your spouse’s name or Social Security number in the heading. Write your spouse’s first name, last name (first four letters only), and Social Security number in the space after the “Married filing separately” box.

If you file separately for Oregon only, write “MFS for Oregon only” in the center at the top of the form. Please write this in **blue or black** ink.

**Important:** Attach a federal Form 1040 or Form 1040A showing how your federal return **would have been filed** if you had filed married filing separately. Also, attach a copy of the joint federal return that you actually filed.

If possible, mail both Oregon returns in the same envelope, but do not staple them together.

**Note:** If you file separate federal returns, you must file separate Oregon returns. If you are a nonresident spouse without Oregon income, you are not required to file a separate Oregon return. Only a nonresident spouse with Oregon income is required to file an Oregon return.

**Example:** Jim worked and lived in Oregon all year. Mary moved from Idaho to Oregon in July and married Jim. They filed a joint federal return and are filing separate returns for Oregon.

Mary earned \$30,000 in Oregon and \$22,000 in Idaho. Jim earned \$41,000 in Oregon. Their total federal adjusted gross income (AGI) was \$93,000.

Jim and Mary claimed \$12,200 itemized deductions, including \$4,900 Oregon withholding tax, on their joint federal return. Mary’s Oregon withholding tax was \$2,200. Jim’s Oregon withholding tax was \$2,700. Their joint federal income tax liability was \$14,400.

Jim, a full-year Oregon resident, files Form 40 and reports his income of \$41,000. He claims the following federal tax liability and deductions:

His share:	$\frac{\$41,000}{\$93,000} = .44$	(44%)
Federal tax:	$.44 \times \$14,400 =$	\$6,336
	(Subtraction limited to \$2,500)	
Total itemized deductions:	$.44 \times \$12,200 =$	\$5,368
Deduction for Oregon tax:	$.44 \times \$4,900 =$	\$2,156

Jim will have net Oregon itemized deductions of \$3,212 (\$5,368 – \$2,156). He will claim his own Oregon withholding of \$2,700 on his separate Oregon return.

Jim follows the line instructions for Oregon Form 40 to complete his return.

Mary, a part-year resident, files Form 40P and reports \$52,000 federal AGI (\$30,000 from Oregon sources). She claims the following federal tax liability and deductions:

Her share:	$\frac{\$52,000}{\$93,000} = .56$	(56%)
Federal tax:	$.56 \times \$14,400 =$	\$8,064
	(Subtraction limited to \$2,750)	
Total itemized deductions:	$.56 \times \$12,200 =$	\$6,832
Deduction for Oregon tax:	$.56 \times \$4,900 =$	\$2,744

Mary will have net Oregon itemized deductions of \$4,088 (\$6,832 – \$2,744). She will claim her own Oregon withholding of \$2,200 on her separate Oregon return.

Mary follows the line instructions for Form 40P to complete her return.

**Taxpayer assistance**

**General tax information** ..... [www.oregon.gov/DOR](http://www.oregon.gov/DOR)  
Salem ..... 503-378-4988  
Toll-free from an Oregon prefix ..... 1-800-356-4222

**Asistencia en español:**  
Salem ..... 503-378-4988  
Gratis de prefijo de Oregon..... 1-800-356-4222

**TTY (hearing or speech impaired; machine only):**  
Salem ..... 503-945-8617  
Toll-free from an Oregon prefix ..... 1-800-886-7204

**Americans with Disabilities Act (ADA):** Call one of the help numbers for information in alternative formats.

