

## **On the Mandatory Combination of Declarations for Husband and Wife's Personal Income Tax**

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### **Abstract**

The Judge of the Judicial Yuan has concluded in the 1993 and 2012 explanations, Interpretation No. 318 and No. 696. These were aimed at the mandatory income tax law for the husband and wife. For the provisions of Article 15 (1) of the Income Tax Law, the provisions on the filing of the husband and wife's income tax for the reduction of tax declarations and the audits for tax verifications, to save the cost of both sides for the purpose, it is not unconstitutional. According to the research opinion in this article, there are two levels of problems. The first one is for the mandatory declaration and report his/her income related informations of taxpayers to the tax authority, according to the principle of proportion to be tested, should be constitutional. It means, the taxpayers should according to these two constitutional interpretaions disclose their personal income informations to tax authority in order to verify if individual revenues are taxable according to tax law. But the other one, the mandatory declartion of two person's income informations compels the spouse to expose the tax information to the taxpayer first before continuing to report to tax authority, in violation of the principle of proportionality, the principle of equality and the objective value of the prohibition of marital discrimination, since it is not justified and infringes the spouse's protection under article 22 of the Taiwanese Constitution. The provision of income tax law is against the spouse's right of self-determination of tax information and should be considered unconstitutional. The exception to agree that the taxpayer can be declared separately, should be changed in real terms by the taxpayer and the consent of both spouses who need to

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declaration, in other words, as long as one party does not agree that the couple should not be forced to consolidate their declarations of personal income information.

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