

How Should I File My Taxes?

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As part of a divorce, the Court has the authority to order that a couple file a joint tax return. *In re Marriage of Deanna Solis-Cantrill v. Dean Cantrill*, the court held that a trial court in Illinois has the legal authority to use its discretion by ordering parties to file a joint tax return as part of a comprehensive approach to settle financial issues when parties are unable to reach an agreement. 2016 Ill.App.3d 150716-U. The court in this unpublished case considered the statutory authority and out-of-state case law to support the finding that the court has the authority to order parties to file joint tax returns, even without an agreement to do so.

Section 503 of the Illinois Marriage and Dissolution of Marriage Act provides the trial court with the authority to divide the marital property during the divorce process. This division of marital property includes marital debts and marital assets. The court must divide the assets in “just proportions considering all relevant factors”. One of the factors the court can consider is the tax consequences of the property and the economic circumstances of the parties.

The court can consider the fact that generally married parties do better under the tax code when they file jointly rather than separately. However, this does not apply in all cases. The trial court has also considered how the parties have previously filed during the marriage, the income and circumstances of the parties, the anticipated refund or liability and other factors.

Further the court has the authority to assign payment of the tax liability disproportionately between the parties depending on the circumstance. *In re Marriage of Deanna Solis-Cantrill v. Dean Cantrill* the court ordered husband to pay 90% of the tax liability and ordered wife to pay 10% of the tax liability based on a finding that husband had acted without wife’s consent and dissipated marital assets.