

Has the Internal Revenue Service sent you a bill for taxes listed on a joint return? Do you believe it would be unfair to hold you liable for these taxes?

Depending on your circumstances, you may qualify for relief as an innocent spouse. A legal services office can help you apply for innocent spouse relief. We may also be able to represent you if the IRS has denied your request for relief.

What is an Innocent Spouse Claim?

Innocent spouse relief is relief from a joint tax debt. If you qualify for innocent spouse relief, you may not be responsible for all or part of the tax debt.

When you get married and sign a joint income tax return, both you and your spouse are agreeing to be responsible for any tax debt listed on the tax return. This means that you could be responsible for the entire tax debt, even if you did not earn any money that year or the debt belongs to your spouse. Most married couples refuse to file a separate tax return since filing a separate tax return makes you ineligible for the earned income tax credit (EITC). Also, if you receive Social Security benefits and file a separate tax return, up to 85 percent of the Social Security benefits may become taxable. If you file a joint tax return, none of the Social Security benefits may be taxable.

How Do I Qualify ?

There are three ways to qualify for innocent spouse relief: separation of liability, pure innocent spouse relief, or equitable relief.

1. Separation of Liability

You may request that the IRS separate your tax liability from your husband's tax liability even though you filed a joint income tax

return. If the innocent spouse has very little or no income, the innocent spouse may not have a tax liability.

If your spouse was self-employed and failed to report income or overstated his business expenses, then you may not be liable for his tax liability.

You can qualify for separation of liability if:

You are divorced; OR,

You are legally separated; OR,

You have lived apart at all times during the 12-month period prior to filing for innocent spouse relief.

You cannot qualify for separation of liability if:

You paid the tax debt; OR,

You knew about the item resulting in an understatement at the time you signed the tax return.

2. Pure Innocent Spouse Relief

You may be allowed to file for pure innocent spouse relief if all of the following apply:

During the year of the tax debt you filed a joint income tax return; AND,

There was an understatement of tax on the tax return due to unreported income, overstated deductions or an erroneous item; AND,

You did not know that there was an understatement of tax when you signed the joint tax return; AND,

It would be unfair to hold you liable for the tax.

Partial Innocent Spouse Relief

If you knew about the understatement of tax, but not the full extent of the understatement, you may qualify for partial spouse relief.

Equitable Relief

If you qualify, you will not have to pay the tax. Most people cannot get a refund of taxes already paid. You can only get a refund if you made payments on the tax between July 22, 1998 and April 15, 1999. You may qualify for equitable relief if, after

taking into account all the facts and circumstances, it would be unfair to hold you liable for the tax. You can request equitable relief if the tax debt is from an understatement or underpayment. This means you can request equitable spouse relief when the tax debt was listed on the tax return. The IRS does not have to change the tax refund.

The IRS may determine that it is unfair to hold you liable for the tax if:

1. You were abused by your spouse; or
2. You are unable to pay your bills; or
3. English is your second language; or
4. You are divorced, legally separated or physically separated for 12 months; or
5. Your spouse has a higher education than you; or
6. Your divorce decree requires your spouse to pay the tax debt; or
7. The liability is due solely to your spouse's income.

The IRS also considers other facts.

How do I request Innocent Spouse Relief?

You must fill out IRS Form 8857 and attach a statement explaining why you believe you qualify for innocent spouse relief. Include your Social Security Number on all paperwork you send. If you are requesting innocent spouse relief for more than one year, you should file one petition, but list a separate statement for each year explaining why you qualify.

DO NOT file form 8857 with your tax return.

When Can I File?

You should file IRS Form 8857 as soon as you become aware of the tax debt. You are considered aware of the tax debt when the IRS examines or audits your income tax return; or sends you a notice or your tax refund is withheld by the IRS to pay the debt. If you wait more than two years, your claim will be barred.

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**IRS - (800) 829 -1040
Taxpayer Advocate Office
1-877-777-4778**



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Innocent Spouse Claims



**“Get Relief From
Your Joint
Tax Debt”**