

Do you owe income tax from a tax return filed with your husband or wife?



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You may get a tax break by applying for Innocent Spouse Relief!

- Did you file a joint income tax return with your husband or wife?
- **And** do you owe back taxes on the joint return?

Then you may want to apply for “Innocent Spouse Relief.” **Spouse** means husband or wife.

A husband and wife may file a joint income tax return. If they do, the IRS expects both spouses to pay the taxes. Sometimes the IRS can decide to not to make one spouse pay. The IRS does this if one of the spouses is innocent. Keep reading to find out the rules for being innocent.

How can Innocent Spouse Relief help?

You may not have to pay any of the taxes. Or, you may have to pay only part of the

taxes. You might even get a refund of the tax payments you made.

1. Do you owe back taxes for a year in which you signed a joint return? Then the IRS may lower your taxes to zero. You will have to show that you meet the rules for this.
2. If the IRS gives you innocent spouse relief, you may get a refund. You won't get a refund for what your spouse paid.
3. If the IRS gives you innocent spouse relief, they won't take your wages or property.
4. With Innocent Spouse Relief, you don't have to pay your husband's or wife's part of the tax.

There are 3 kinds of Innocent Spouse Relief

1. Innocent spouse relief



You can get this kind of relief, **IF all these things are true:**

- You filed a joint tax return with your spouse.
- The IRS says you owe more tax than you reported on your joint tax return. For example, your return didn't show all of your spouse's income. Or your

return showed more expenses than you had.

And

- You didn't know that all of your spouse's income wasn't reported on the joint return
- It wouldn't be fair to make you pay the tax.

What if you knew the tax amount was wrong but did not know how much? Then you might get **partial spouse relief**. This means you only have to pay part of the tax.

2. Separation of liability

This means the IRS divides up the taxes you and your spouse owe. You pay only the tax from your income. Your spouse has to pay the tax from his or her income.



You can get separation of liability **IF these things are true:**

- You filed a joint return with your spouse
- You divorced, are legally separated **OR**
- You have not lived together for the last 12 months **AND**
- The IRS says you owe more than it shows on your joint tax return.

You can **NOT** get separation of liability if:

- You have already paid the taxes **OR**
- You knew the tax return was wrong when you signed it

3. Equitable relief

Equitable means fair. You may get equitable relief if it would not be fair to make you pay the tax.

The IRS may decide it is not fair to make you pay the tax. This may happen **IF most of these things are true:**

- You filed a joint return with your spouse.
- You didn't know all the income was not on your tax return.
- You are divorced, legally separated or lived apart the last 12 months.
- You won't be able to pay for basic living expenses if you have to pay the tax.
- Your spouse mentally or physically abused you.
- You are in poor health.
- Your divorce papers say your spouse must pay the back taxes.
- The back taxes are all on income your spouse earned.
- Anything else that shows it is unfair for the IRS to make you pay the tax.



How do I ask for Innocent Spouse Relief?

Fill out IRS Form 8857 (copies on the internet at www.irs.gov). Attach a letter saying why you should get Innocent Spouse Relief. Put your name and Social Security number on the letter. Don't file IRS Form 8857 with your income tax return. Mail it in a separate envelope.

Do you want Innocent Spouse Relief for more than one tax year? You can list 3 years on one Form 8857. If you have more than 3 years, you will need more 8857 forms. The IRS could take 6 to 15 months to decide your case.

When should I file for Innocent Spouse Relief?

File soon as you know you owe the taxes.
How long do you have to file IRS Form 8857?
You only have 2 years after the IRS tries to collect the money.

How will I find out if I owe back taxes?

- The IRS may send you a letter **OR**
- The IRS may keep your tax refund to pay the debt



How can I get help?

Call the Tennessee Taxpayer Project. We can help you apply for Innocent Spouse Relief. We may be able to take your case if the IRS won't give you relief.

To find if we can help you, call **1-866-481-3669**. It's a free call.

Why do so many married couples file joint tax returns?

To save money. Also, they have to file jointly to get the Earned Income Credit (EIC).

Do you get a Social Security check? If you file jointly, you usually pay **NO** taxes on your Social Security checks. What if you file separate tax returns? Then you might have to pay taxes on 85% of your Social Security check.

Note: This information cannot take the place of advice from a lawyer. Each case is different and needs individual legal advice. You should contact a lawyer if you need representation on a tax matter or if you have questions.

Have low income and legal problems? Call Legal Aid at **1-800-238-1443**. It's a free call. Or visit us on the internet at: **www.las.org**



Working Together. Doing Justice. Restoring Hope.

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