

3. Equitable relief

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

The IRS may decide it is not fair to make you pay the tax if at least one or more of the following are true:

- you didn't know or had no reason to know that you owed the tax debt(s)
- your husband or wife abused you
- you can't pay your bills
- English is your second language
- you're divorced, legally separated, or lived apart for the last 12 months
- you're in poor health
- your divorce papers say your spouse must pay the back taxes
- the back taxes are all on money your spouse earned
- have you been filing your tax returns on time
- anything else that shows it is unfair for the IRS to make you pay the tax



How do I apply for Innocent Spouse Relief?

1. Fill out IRS Form 8857 on www.irs.gov.
2. Attach a letter saying why you should get Innocent Spouse Relief.
3. Put your name and Social Security number on the letter.



If you want relief for more than 3 years, you need to fill out additional Form 8857. Don't file IRS Form 8857 with your income tax return. Mail it separately.



When applying for Innocent Spouse Relief, ensure you submit all important paperwork upfront, because you may not be able to add anything else to your claim later. **Some examples include paperwork like:**

- divorce decrees
- police reports
- medical records
- IRS Form 433-F demonstrating financial hardship

Did the IRS deny you Innocent Spouse Relief?

You have the right to appeal to the IRS! You can appeal to the IRS within 30 days. If you are denied again, you will receive a letter saying you have 90 days to file a petition with the United States Tax Court.

Who We Are

Legal Aid Society is Tennessee's largest non-profit law firm. Our mission is to enforce, advance, and defend the legal rights of low income and vulnerable people to obtain the basic necessities of life.

Contact Us

We have offices in Clarksville, Columbia, Cookeville, Gallatin, Murfreesboro, Nashville, Oak Ridge, and Tullahoma.

Tennessee Taxpayer Project
A Low Income Taxpayer Clinic
Legal Aid Society
1-866-481-3669



LEGAL AID SOCIETY
OF MIDDLE TENNESSEE AND THE CUMBERLANDS



LSC | America's Partner
for Equal Justice
LEGAL SERVICES CORPORATION

Organizations and their participating practitioners distributing this brochure are not affiliated with the IRS or U.S. Government. The IRS does not endorse, warrant, approve, or disapprove of these organizations or their participating practitioners. The use or failure to use these organizations or their participating practitioners will not result in any special treatment from the IRS. Funded in part by a Low Income Taxpayer Clinic Grant under IRC Section 7526. Revised 9/23



Tennessee Taxpayer Project

What is Innocent Spouse Relief?

If you owe income tax from a tax return filed with your spouse, You may get a tax break by applying for Innocent Spouse Relief!

Call the Tennessee Taxpayer Project at 1-866-481-3669 if you have questions or need more information. It's a FREE call!



LEGAL AID SOCIETY
OF MIDDLE TENNESSEE AND THE CUMBERLANDS



If you filed a joint income tax return with your spouse and owe back taxes on money your spouse received, then you may want to apply for “Innocent Spouse Relief.”

By signing a joint tax return, both of you agreed to pay the taxes. The IRS expects both of you to pay the taxes.



How do I get Innocent Spouse Relief?

To get Innocent Spouse Relief it is important to show that:

- you did not know or had no reason to know that you owed these taxes; **OR**
- it is not fair to make you pay the taxes

How can Innocent Spouse Relief help me?



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.

If you owe back taxes the IRS can:

- keep your tax refund
- take part of your paycheck
- take all or part of your social security check

Innocent Spouse Relief may:

- stop the IRS from taking future tax refunds
- remove the joint tax debt(s)
- keep the IRS from taking money from your paycheck
- stop the IRS from taking your social security check



If the IRS grants you innocent spouse relief, your current or ex spouse will still be responsible for the federal tax debts listed on the joint tax return(s).



Are you divorced or is your spouse deceased?

If you are divorced or your spouse is deceased, you still owe the joint tax debt(s). With Innocent Spouse Relief, you do not have to pay your spouse's part of the tax debt(s).



There are 3 types of Innocent Spouse Relief

1. **Innocent Spouse Relief.** You can get this type if all these things are true:

- you filed a joint tax return
- the IRS says you owe more than it shows on your joint tax return

For example, your return did not show all your income or your return showed more expenses than you had, or there was a mistake on your return.

- you didn't know or had no reason to know that you owed the tax debt(s)
- it would not be fair to make you pay the tax debt(s); **AND**
- the amount or part of the amount owed is due to your spouse's mistake, income or expenses

2. **Separation of liability.**

Separation of liability means the IRS divides up the taxes you and your spouse owe. You must pay your part and your spouse must pay their part.



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

- you filed a joint tax return
- you're divorced, legally separated, **OR** 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'T get separation of liability if:

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



The IRS prefers to grant this type of relief. **Beware:** You CAN'T get a refund of your separate payments made on the joint account. This includes prior refunds kept to pay the joint debt.