

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



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 money your husband or wife earned?
- **And** does it seem unfair to make you pay the taxes?

Then you may want to apply for “Innocent Spouse Relief.”

By signing a joint tax return, both of you agreed to pay the taxes you owe. The IRS expects both the husband and wife to pay the taxes. To get Innocent Spouse Relief you must show that:

- You did not know that you owed these taxes,
- OR**
- That it is not fair to make you pay them.

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. If you owe back taxes, the IRS keeps your tax refund. Innocent Spouse Relief lets you get your share of the tax refund.
2. If you owe back taxes, the IRS can take part of your paycheck. Innocent Spouse Relief keeps the IRS from doing this to you. They can still take part of your husband’s or wife’s paycheck.



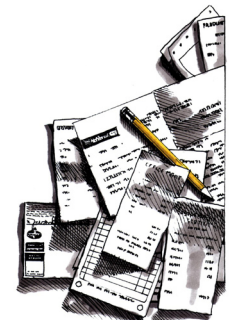
3. If you owe back taxes, the IRS can sell your house or other property. They can keep enough of the money to pay your taxes. With Innocent Spouse Relief, they can still sell your property. But, they cannot pay the tax bill with your part of the money from the sale. They can only keep your husband’s or wife’s part of the money.
4. If your spouse dies, you may still owe back taxes for both of you. With Innocent Spouse Relief, you do not have to pay your husband’s or wife’s part of the tax.
5. If you divorce or separate, you may still owe back taxes for both of you. With Innocent Spouse Relief, you do not have to pay your spouse’s part of the tax.

There are 3 kinds of Innocent Spouse Relief

1. Innocent spouse relief

You can get this kind **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.

And

- You didn't know you owed more than the tax return said;

And

- It would not be fair to make you pay the tax.

And

- The amount owed is due to your spouse's mistake, income or expenses.

What if you knew the tax amount was wrong but did not know the amount? 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 have to pay your part. Your husband or wife has to pay their part.

What if you did not work or made only a little money? Then you may not have to pay any taxes for your part.

Was your spouse self-employed? Self-employed means working for yourself. This can be things like yard work, cutting hair or odd jobs. Did your spouse show the wrong income or expenses? Then you may not have to pay, even if your spouse does.

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

- 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 **IF:**

- Your husband or wife abused you; **OR**
- You can't pay your bills; **OR**
- English is your second language; **OR**
 - You divorced or legally separated or lived apart the last 12 months; **OR**
 - Your are in poor health; **OR**
 - Your divorce papers say your spouse must pay the back taxes; **OR**
 - The back taxes are all on money your spouse earned; **OR**
 - 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 separately.

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. You only have 2 years to file IRS Form 8857 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, **OR**
- The IRS may audit your tax return.

How can I get help?

Call the Tennessee Taxpayer Project. We can help you apply for Innocent Spouse Relief. We may also be able to represent you if the IRS will not 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.

Tennessee Taxpayer Project

1-866-481-3669

It's a free call.

The Tennessee Taxpayer Project is funded in part by a grant from the IRS. The Tennessee Taxpayer Project is independent of the IRS and Tennessee Department of Revenue. The staff of the Legal Aid Society prepared this brochure. 2/2008

LEGAL AID SOCIETY OF MIDDLE TENNESSEE AND THE CUMBERLANDS

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