



Innocent Spouse Relief Fact Sheet

Introduction

“Innocent spouse relief” prevents you from being forced to pay additional tax assessed by the Internal Revenue Service (IRS) due to your spouse or former spouse failing to properly report income (or report income at all) or claiming improper deductions or credits. In other words, you are not responsible for taxes owed by your spouse or former spouse when they did not report income or claimed deductions or credits they did not deserve.

Applying

Fill out Form 8857 and mail or fax the form to the IRS. Be sure to fill out all information on the form correctly, include the required documentation, and expect processing to take six to 12 months. You should file for innocent spouse relief as soon as possible.

Amounts

The relief you can receive will be up to the amount of additional tax you would otherwise owe due to the items which were included on your joint return after the original filing and for which your spouse is responsible.

Eligibility

To qualify for innocent spouse relief, you must fulfill the following three criteria:

- You filed a joint return that has an understatement of tax (deficiency) that is solely attributable to your spouse's failure to report or improperly claimed. These erroneous items can include income received by your spouse but omitted from the joint return. Deductions, credits, and property bases can also be erroneous items if they are incorrectly reported on the joint return.
- You establish that at the time you signed the joint return you did not know, and had no reason to know, that there was an understatement of tax.
- Accounting for all the facts and circumstances, it would be unfair to hold you liable for the understatement of tax.

Your spouse to whose debt your refund was improperly applied is the person who you filed a joint return with. Both same-sex and opposite-sex married couples receive the same state and federal benefits and burdens. This includes the right to apply for “injured spouse relief” should you meet the criteria listed above.

Income Requirements

Any person who files a joint tax return is eligible if they meet the requirements to be an “innocent spouse,” regardless of income.

Informing Your Spouse

By law, the IRS must contact your spouse or former spouse. The IRS will inform your spouse or former spouse that you filed Form 8857 and will allow them to participate in the process. The IRS will also inform them of its preliminary and final determinations regarding your request for relief. There are no exceptions, even for victims of spousal abuse or domestic violence. Therefore, you should consider all options including an Offer-in-Compromise and Doubt as to Liability, if you are concerned about notification to your spouse.

However, to protect your privacy, the IRS will not disclose your personal information (for example, your current name, address, phone number[s], information about your employer, or your income or assets) or any other information that does not relate to making a determination about your request for relief from liability.

Innocent Spouse vs. Injured Spouse

Innocent spouse relief allows you to obtain relief from a liability on a joint return if you meet the criteria listed above, specifically not knowing nor having any reason to know about improperly claimed income and deductions on a joint return. Injured spouse relief, on the other hand, allows you to recover a portion of a refund you should have received but was used to satisfy a liability belonging solely to your spouse. Put more simply, file for innocent spouse relief if you are found liable for taxes your spouse owes due to not claiming income, improperly claiming income, or improperly claiming a deduction or credit.

For more information, search “Form 8857” at [irs.gov](https://www.irs.gov).

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The information and statements of law in this fact sheet should not be considered legal advice. This fact sheet is provided as a broad guide to help you understand how certain legal matters are handled in general. Courts may interpret the law differently. Before you take action, talk to an attorney and follow his or her advice. Always do what the court tells you to do.

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