

Where can I get more information?



Publication 971, Innocent Spouse Relief, explains the rules to qualify for and claim relief from tax liability under this code section. This publication can be downloaded from the Internet at:

www.irs.gov

Or you can order free forms and publications from the IRS at 800-829-3676.

If you have access to TTY/TDD equipment, you can call 800-829-4059 to ask tax questions or to order forms and publications.

The IRS Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

HOW TO REQUEST RELIEF

You can file Form 8857
Request for Innocent Spouse Relief
(One form will cover multiple years)



INNOCENT SPOUSE RELIEF

(Separation of Liability & Equitable Relief)

What If . . .

You signed a joint return with your spouse and . . .

The IRS increased your taxes because of your spouse's unreported income or disallowed deductions or credits.

You knew nothing about the unreported or erroneous items when you signed the return and . . .

Because of these changes you now owe tax on this joint return.

**What tax relief is
available to you?**
Call the
Internal Revenue Service
Toll-Free at
(800) 829-1040

- ❑ If you meet all of the conditions for innocent spouse relief, the tax due on the return along with any penalties and interest will not be collected from you.
- ❑ You may be eligible for partial relief based on the facts and circumstances of your situation.
- ❑ You must file Form 8857 no later than 2 years after the date the IRS first attempts to collect the tax from you.
- ❑ The IRS will figure the amounts for you if relief is allowed.
- ❑ You must, however, attach a statement as to why you believe you qualify for relief in order to process your claim.
- ❑ Owing money on a joint tax return does not automatically qualify you for relief, even if you are now divorced or separated.

KEY POINTS

Did you know about the unreported income or erroneous items?

Did you receive benefit from the unreported income or erroneous items?

If you **knew** of or received **significant benefit**, either directly or indirectly, from the unreported income or erroneous items on the return, you are not eligible for Innocent Spouse relief.

EXAMPLE: Bill and Karen Green filed a joint return showing Karen's wages of \$50,000 and Bill's self-employment income of \$10,000. The IRS audited their return and found that Bill did not report \$20,000 of self-employment income. The additional income resulted in a \$6,000 understatement of tax, plus penalties and interest. Karen was completely unaware of Bill's business dealings and paid all of the household expenses from her salary. Karen filed Form 8857 seeking relief from additional tax,

penalties and interest. IRS granted Karen's request for relief. Bill alone will be responsible for the taxes, penalties and interest due.

In this example, the key factors in the determination were that Karen had no knowledge of and received no benefit from the unreported income.

EXAMPLE: Mark and Carol Smith filed a joint return in 1996. In 1998, the IRS audited their return and discovered that Carol did not report \$12,500 in wages. This resulted in additional tax of \$3000, plus \$675 in penalties and interest. Mark stated he did not know about the income but was aware that Carol had worked for the company paying the wages. Mark admitted the family expenses could not have been met on his income alone. IRS disallowed Mark's request for relief, filed on Form 8857. The additional taxes, penalties and interest due on the Smiths' 1996 return are collectible from both Carol and Mark.

In this example, the key factors in the determination were that both Carol and Mark knew about and received benefit from the unreported income.