

Community Legal Aid

A non-profit law firm serving the legal needs of low-income individuals and families in central northeast Ohio



www.communitylegalaid.org

Innocent Spouse Relief

WHAT IS INNOCENT SPOUSE RELIEF?

When you get married and sign a joint income tax return both you and your spouse are agreeing to be responsible for any tax debt listed on the tax return. This means that you could be responsible for the entire tax debt, even if you did not earn any money that year or the debt belongs to your spouse. Innocent spouse relief is relief from this joint debt.

HOW DO I QUALIFY FOR INNOCENT SPOUSE RELIEF?

There are three ways to qualify for innocent spouse relief:

Separation of liability is where you ask the IRS to separate your tax liability from your spouse's even though you filed a joint return.

Pure innocent spouse relief is where you ask the IRS to refund taxes you already paid and remove the debt from your name.

Equitable relief applies when it would be unfair to expect you to pay your spouse's debt, such as in the case of a domestic violence survivor or someone who has been divorced.

HOW CAN I APPLY FOR INNOCENT SPOUSE RELIEF?

Fill out tax form 8857 and attach a statement explaining why you qualify. Include your name and social security number on the statement.

CAN I APPLY FOR MORE THAN ONE YEAR?

Yes. You should file one petition but list a separate statement for each year, explaining why you qualify.

WHEN CAN I FILE?

You should file form 8857 as soon as you become aware of the tax debt. Do not wait for your income tax return to file it. You must file no later than two years from the IRS' attempt to collect

the tax debt.

Disclaimer:

Disclaimers: The LITC is funded in part by a grant from the Internal Revenue Service. All conversations with your attorney are confidential. We are not a tax preparation service; the LITC does not generally provide tax return preparation.

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