

**Has the Internal Revenue Service sent you a bill for taxes listed on a joint return? Do you believe it would be unfair to hold you liable for these taxes?**

Depending on your circumstances, you may qualify for relief as an innocent spouse. CLSMF's Low Income Taxpayer Clinic (LITC) can help you apply for innocent spouse relief. We may also be able to represent you if the IRS has denied your request for relief.

**What is an Innocent Spouse Claim?**

Innocent spouse relief is relief from a joint tax debt. If you qualify for innocent spouse relief, you may not be responsible for all or part of the tax debt.

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. Most married couples refuse to file a separate tax return since filing a separate tax return makes you ineligible for the earned income tax credit (EITC). Also, if you receive Social Security benefits and file a separate tax return, up to 85 percent of the Social Security benefits may become taxable. If you file a joint tax return, none of the Social Security benefits may be taxable.

**How Do I Qualify ?**

There are three ways to qualify for innocent spouse relief: separation of liability, pure innocent spouse relief, or equitable relief.

**1. Separation of Liability**

You may request that the IRS separate your tax liability from your husband's tax

liability even though you filed a joint income tax return. If the innocent spouse has very little or no income, the innocent spouse may not have a tax liability.

If your spouse was self-employed and failed to report income or overstated his business expenses, then you may not be liable for his tax liability.

You can qualify for separation of liability if:

You are divorced; OR,

You are legally separated; OR,

You have lived apart at all times during the 12-month period prior to filing for innocent spouse relief.

You cannot qualify for separation of liability if:

You paid the tax debt; OR,

You knew about the item resulting in an understatement at the time you signed the tax return.

**2. Pure Innocent Spouse Relief**

You may be allowed to file for pure innocent spouse relief if all of the following apply:

During the year of the tax debt you filed a joint income tax return; AND,

There was an understatement of tax on the tax return due to unreported income, overstated deductions or an erroneous item; AND,

You did not know that there was an understatement of tax when you signed the joint tax return; AND,

It would be unfair to hold you liable for the tax.

**Partial Innocent Spouse Relief**

If you knew about the understatement of tax, but not the full extent of the understatement, you may qualify for partial spouse relief.

**Equitable Relief**

You may qualify for equitable relief if, after

taking into account all the facts and circumstances, it would be unfair to hold you liable for the tax. You can request equitable relief if the tax debt is from an understatement or underpayment. This means you can request equitable spouse relief when the tax debt was listed on the tax return. The IRS does not have to change the tax refund.

The IRS may determine that it is unfair to hold you liable for the tax if:

1. You were abused by your spouse; or
2. You are unable to pay your bills; or
3. English is your second language; or
4. You are divorced, legally separated or physically separated for 12 months; or
5. Your spouse has a higher education than you; or
6. Your divorce decree requires your spouse to pay the tax debt; or
7. The liability is due solely to your spouse's income.

The IRS also considers other facts.

**How do I request Innocent Spouse Relief?**

You must fill out IRS Form 8857 and attach a statement explaining why you believe you qualify for innocent spouse relief. Include your Social Security Number on all paperwork you send. If you are requesting innocent spouse relief for more than one year, you should file one petition, but list a separate statement for each year explaining why you qualify.

**DO NOT file form 8857 with your tax return.**

**When Can I File?**

You should file IRS Form 8857 as soon as you become aware of the tax debt. **You are considered aware of the tax debt when the IRS examines or audits your income tax return; or sends you a notice or your tax refund is withheld by the IRS to pay the debt.**

**Please Note: We do not assist with tax preparation unless there is an underlying issue requiring tax preparation and filing.**

Community Legal Services of Mid-Florida's (CLSMF) mission is to provide access to justice through high quality legal assistance to low-income persons.

CLSMF provides free legal assistance to eligible low-income persons in civil matters (we do not offer legal assistance in criminal or traffic matters). CLSMF also provide community educational seminars and brochures regarding the major areas of law we practice.

This program is made possible by a Low-Income Taxpayer Clinic grant provided by the US Internal Revenue Service. Although the LITC receives funding from the IRS, the clinic and its employees are not affiliated with the IRS. A taxpayer's decision to use the LITC will not affect the taxpayer's rights before the IRS. Support is also provided by many dedicated tax professionals who volunteer their time and skills to the LITC.

IRS - (800) 829 -1040  
Taxpayer Advocate Office  
1-877-777-4778



The Florida Bar Foundation, with *Interest on Trust Accounts* program funding, provides support for this service.

## Community Legal Services of Mid-Florida Offices

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Inverness, FL 34450

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FLAGLER—(800) 405-1417

PUTNAM—(386) 385-0928

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HERNANDO — (866) 801-5566

LAKE— (352) 343-6351

226 West Main St., Tavares, FL 32778

MARION— (352) 629-6257

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ORANGE — (407) 841-7777

122 E. Colonial Drive, Suite 200

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800 North Main St., Kissimmee, FL 34744

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