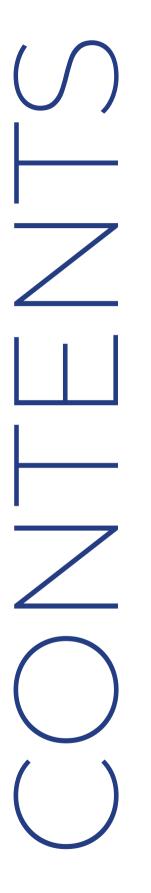
AN ATTORNEY'S GUIDE TO DIVORCE-RELATED TAX ISSUES



Accountants Consultants & Business Valuators



01.

Taxability of assets distributed incident to divorce

02.

Tax deductibility of professional fees

03.

Alimony & child support

04.

Sale of personal residence

05.

Filing status

06.

Children/dependents personal exemption

07.

Deductibility of mortgage interest & real estate taxes

08.

IRA's & retirement plans

09.

Stock option & deferred compensation plans

10.

Innocent spouse rules



MESSAGE FROM OUR TEAM LEADER

Mark S. Gottlieb leads MSG's Business Valuation, Forensic Accounting & Litigation Support practice headquartered in New York City.

Among the myriad of questions and dilemmas that arise during divorce, perhaps the ones attorneys find most daunting revolve around tax matters. Now is an opportune moment to refresh your understanding of these critical questions that you may encounter.

By arming yourself with a comprehensive understanding of these divorce-related tax issues, you can provide invaluable guidance to your clients during one of the most challenging times in their lives.



Numbers can be your ally or adversary in court. Trust us to make them your strategic advantage.



//

01 TAXABILITY OF ASSETS DISTRIBUTED INCIDENT TO DIVORCE

One of the most disputed issues in a divorce is the distribution of the marital assets. This is commonly referred to as "equitable distribution" or "ED".

Under the Internal Revenue Code (IRC) Section 1041 (a), no gain or loss is recognized on the transfer (acquisition or distribution) incident to divorce provided such transfer occurs within one year after the divorce or related to the ending of the marriage.

According to the IRS, common assets transferred tax-free under Section 1041 include primary residences, investment assets, business interests, vested stock options, and retirement plans.

02 TAX DEDUCTIBILITY OF PROFESSIONAL FEES

Legal and other professional fees related to getting a divorce are generally <u>not</u> tax deductible.

These non-deductible costs include expenses related in arriving at financial settlements and retaining income-producing property. However, some legal and accounting expenses can be deducted as a miscellaneous itemized deduction, subject to the 2% limitation.

Here is a short list of some of these exceptions:

- Fees related to tax advice related to a divorce
- Fees to determine or collect alimony
- Appraisal and actuary fees to determine tax liabilities or to assist in obtaining alimony



03 ALIMONY & CHILD SUPPORT

Alimony in divorces finalized after December 31, 2018 is no longer deductible by the payer or taxable to the recipient. However, divorces finalized before this date are grandfathered in, and alimony deductions/income still apply if stipulated in prenuptial agreements made before 2019.

Below is an updated table of the contrasts between alimony and child support payments, from a tax perspective.

	Alimony	Child Support
Qualifications	 Payment in cash (including checks or money orders) Payments made under divorce or separation decree Spouses do not live in same household Payments terminate upon death of recipient 	 Payments specifically designated as child support in agreement Payments do not continue after child is 18, or after college in some cases Payments go to custodial parent Payments used for child's expenses
Tax deductible for the payer	No (If divorce was executed on or after January 1, 2019)	No
Taxability for the reciepient	No (If divorce was executed on or after January 1, 2019)	No



04 SALE OF PERSONAL RESIDENCE

If your client lives in the "Principal Residence" for any two of the last five years, they are eligible for a capital gain exclusion upon the sale of the home

This exclusion is \$250,000 for a single taxpayer and \$500,000 for a married couple. Because of the significant difference in tax treatment, the tax consequences related to the sale of the marital home should be considered early on in the divorce settlement negotiations.

TIP

If the sale of the marital residence is contemplated, consider the transaction prior to the termination of the marriage in order to take advantage the higher exclusion amount. This will secure more proceeds from the sale.

05 FILING STATUS

An individual's marital status is determined as of the last day of the calendar year – December 31st. When the parties file jointly each is jointly liable for the tax obligation, regardless of what a divorce instrument may say.

For those that are still married at the end of the year but were legally separated on December 31st or have not lived with their spouse for the last six months of the year – they may be able to file as head of household. This filing status is attractive because the tax rates are significantly less than for those filing as married filing separate.

If an individual is divorced as of December 31st, even if married and living together with their ex-spouse sometime during the year, they must file as a single taxpayer or head of household for that year.



To file head of household, a number of requirements must be met..

- The individual must have paid more than half of the cost of keeping a home for a child or other qualifying person
- This individual is entitled to claim the qualifying person as a tax exemption
- The qualifying person must have lived in the individual's home for more than half the year

Note: Income Tax projections utilizing different scenarios are an often neglected but valuable planning tool. This exercise should be performed for years before and after the termination of the marriage.

06 CHILDREN/DEPENDENTS PERSONAL EXEMPTION

Generally, the custodial parent is entitled to the dependency exemption as long as the parents (individually or together) provide at least one-half of the dependent's support.

There are two exceptions to this general rule:

- When the custodial parent relinquishes the rights to the exemption, or
- When a multiple support agreement is established at least one-half of the dependents support

When parents have joint custody of the child (or children), the one whose house the child sleeps at the most nights is the qualifying parent.

The non-custodial parent can claim the child as a dependent, with consent from the custodial parent. The custodial parent must fill out IRS Form 8332 (Release/ Revocation of Release of Claim to Exemption for Child by Custodial Parent) which states they do not intend to claim the child as a dependent on their upcoming tax return.

Dependent exemptions often vary by agreement. When preparing these arrangements make sure you consider the age of the child/dependent and the taxable income of each parent.



07 DEDUCTIBILITY OF MORTGAGE INTEREST & REAL ESTATE TAXES

When a couples' principal residence is jointly owned, and the mortgage interest and property taxes are paid from a joint account, there is a presumption that these payments are attributed to each party on a 50/50 basis.

If the home is owned only by the occupying spouse but the non-occupying spouse is still obligated on the mortgage, the non-occupying spouse can only deduct the mortgage interest if a minor child of the marriage resides in the home. The nonoccupying spouse cannot deduct any of the real estate taxes, since he or she has no ownership in the property.

08 IRA'S & RETIREMENT PLANS

By law, 401(k)s and individual retirement accounts (IRAs) can have only a sole account holder. However, the money that goes into such accounts during a marriage are often part of the marital estate.

A Qualified Domestic Relations Order (QDRO) is a useful tool to designate a portion of a qualified retirement plan to the other spouse. This vehicle allows the distribution of the marital asset without damaging the integrity of the plan or the creation of a taxable event.

Benefits are taxed when distributions are made, not when the QDRO is established. QDRO's do not apply to Individual Retirement Accounts (IRA's); however, IRA's transferred pursuant to a divorce or separation agreement is not a taxable event.

QDRO NEEDED

- Private pension plans
- 401(k) plans
- 403(b) plans
- 457 plans
- Employee stock ownership plans (ESOPs)
- Defined benefit plans
- Keogh plans

NO QDRO

- IRAs (Traditional, Roth, SEP, etc.)
- Deferred annuities
- Government retirement plans

09 STOCK OPTION & DEFERRED COMPENSATION PLANS

The transfer of an interest in a non-statutory stock option or a nonqualified deferred compensation plan incident to a divorce is not a taxable event.

However, income is reported when the former spouse exercises the stock options or when the deferred compensation is paid (or made available).

TIP

Stock option & deferred compensation plans can be identified within employment contracts and/or annual wage reporting statements. Obtain the periodic statements (monthly, quarterly, annual, etc.) for your file.



10 INNOCENT SPOUSE RULES

There are three major types of innocent spouse relief, one of which is specific to divorcing couples:

Innocent spouse relief (IRC §6015(b))

This traditional innocent spouse relief is available to all joint filers where one spouse had no actual knowledge and no reason to know of a tax deficiency. A request for relief must be filed within two years of the first collection activity taken by the IRS.

Separation of liability relief (IRC §6015(c))

This relief is available only to those who are divorced or separated for at least 12 months before applying for relief. The return must have been jointly filed, and the spouse must have had no knowledge of the incorrect item(s) on the tax return. The burden of proving actual knowledge is placed on the IRS. This form of relief is typically easier to obtain and allocates liability for the tax deficiency among the spouses based on who was responsible for the nonpayment or underpayment



Equitable relief (IRC §6015(f))

This type of relief is available to spouses who do not qualify under §6015(b) or §6015(c). Equitable relief is afforded to filers who are able to prove that it would be unfair to hold them responsible for the nonpayment or underpayment of the taxes.

While those who are ending a marriage are specifically entitled to relief under IRC §6015(c), divorcing clients are not restricted to using only this provision of the Internal Revenue code to escape an unfair tax obligation.

If financial records revealed during a divorce show that wrongdoing occurred, your client can seek innocent spouse tax relief even before the IRS discovers the nonpayment or underpayment and begins collections activities. By separating his or her property from the spouse's in the divorce, any property belonging to the innocent spouse can also be protected, except in limited circumstances where it is proved that the property or assets was/were transferred only to shield it from collections by the IRS.



Those seeking innocent spouse relief can begin the process by filing form 8857 with the IRS. When this form is submitted, individuals must submit evidence proving their right to relief including...

- Whether the spouse was aware, or should have been aware, of the underpayment or nonpayment of taxes
- The financial situation of the spouses
- The nature of the income undeclared and the amount undeclared relative to other joint income
- The educational background and business knowledge of the innocent spouse
- Whether the income or deductions was/were significantly different from what was reported on prayer tax returns
- Whether the innocent spouse questioned the return and/or received assurances
- Instances of domestic abuse is also a factor in innocent spouse claims

NEXT STEPS

While you provide critical legal counsel to your clients, MSG can complement your services as forensic accountants.

With extensive experience untangling finances during divorce, we identify tax liabilities, analyze records for hidden assets, and uncover inappropriate deductions. Our customized financial analysis gives your clients the information they need to make sound decisions during this difficult transition. By working together, we can achieve optimal outcomes for all parties.

Book a 15-minute case exploration call with Mark S. Gottlieb here to discuss your next case.



MSG SERVICES

Forensic Accounting Economic Damages Litigation Support Record Reconstruction Business Valuation Transaction Advisory Expert Testimony Arbitration

ATTORNEYS: CLICK HERE FOR A 15-MINUTE CASE EXPLORATION WITH MARK S. GOTTLIEB, CPA/ABV/CFF, ASA, CVA, CBA, MST

CONTACT

<u>www.msgcpa.com</u> <u>msgcpa@msgcpa.com</u> **6**46

646-661-3800 646-661-3801

Click to follow us on social media for more attorney resources



IRS INNOCENT SPOUSE RELIEF

Presented by Christina Jonathan, Esq JASPAN SCHLESINGER NARENDRAN LLP 300 Garden City Plaza Garden City, NY 11530

JOINT RETURN = JOINT LIABILITY

- ♦ Married couples may file joint returns, with the exceptions carved out in <u>IRC § 6013</u>
- ♦ Once the married couple makes this election, each spouse is jointly & severally liable for the taxes computed on the return, any deficiencies, increases from an audit, penalties, interest, etc. <u>IRC § 6013 (d)(3)</u>
- ♦ Thus, the IRS will take collection action against each spouse individually, even if one spouse settles his/her tax liability, or dies
- ♦ A divorce agreement does not prevent the IRS from taking collection action despite the terms of the agreement

RELIEF FROM JOINT AND SEVERAL LIABILITY

Congress responded to the harsh rule on joint and several liability by enacting exceptions codified in IRC § 6015

The code provides for 3 types of relief:

- 1. Innocent Spouse Relief, pursuant to IRC § 6015(b)
- 2. Separation of Liability, pursuant to <u>IRC § 6015(c)</u>
- 3. Equitable Relief, pursuant to IRC § 6015(f)

<u>Injured Spouse Relief</u>: this is a separate program that allows an allocation if a joint return was filed and an overpayment was applied to offset a spouse's legally enforceable outstanding debts for child support, spousal support, federal nontax debt (i.e. student loans), federal taxes, state taxes, state unemployment compensation

INNOCENT SPOUSE RELIEF

IRC § 6015(b) generally provides innocent spouse relief if:

- (A) A joint return was made for a taxable year;
- (B) There was an understatement of tax attributable to erroneous items of one spouse;
- (C) The other spouse established that she/he did not know, or had reason to know that there was an understatement when signing the return;
- (D) It would be inequitable to hold the electing spouse liable for the deficiency; taking into account the facts and circumstances;
- (E) The electing spouse files for relief within 2 years of the IRS' commencement of collection activities

SEPERATION OF LIABILITY

IRC § 6015(c) generally provides separation of liability relief if:

- A joint return was filed for the year relief is requested
- The deficiency is attributable to the non-requesting spouse
- The requesting spouse is widowed, divorced or legally separated.
- The requesting spouse also qualifies if the non-requesting spouse was no longer in the same household any time during the previous 12 months that the election is filed, except for incarceration, illness, business, vacation, education or other temporary absences.
- The electing spouse files for relief within 2 years of the IRS' commencement of collection activities
- If granted, the IRS will make an allocation between the joint filers pursuant to the formula in $\underline{IRC \ \S \ 6015(d)}$

EQUITABLE RELIEF

If relief cannot be granted pursuant to the Innocent Spouse Relief or Separation of Liability Relief, the IRS has discretionary power, pursuant to IRC § 6015(f) to determine if it would be equitable to hold an individual liable, taking into consideration the facts and circumstances presented.

According to the <u>IRM 25.15.3</u>, the following factors are analyzed:

- (1) Marital Status: if the requesting spouse is no longer married it will weigh in favor of relief
- (2) Economic Hardship: if denying relief would cause the requesting spouse economic hardship, it will weigh in favor of relief
- (3) Knowledge: if the requesting spouse did not know or have reason to know of the item giving rise to the deficiency, it will weigh in favor of relief
- (4) Legal Obligation: if the non-requesting spouse has the sole legal obligation to pay the outstanding tax liability pursuant to a divorce decree or agreement, it will weight in favor of relief
- (5) Significant Benefit: If the requesting spouse received a significant benefit, it will weigh against relief
- (6) Compliance: If the requesting spouse is compliant in the taxable years after relief is requested, it will weigh in favor of relief
- (7) Mental or Physical Health: If the requesting spouse was in poor physical or mental health, it will weigh in favor of relief

HOW TO FILE A CLAIM

FORM 8857 is used for all 3 types of claims, the IRS will determine the appropriate relief

The form is simple, with the following 7 parts:

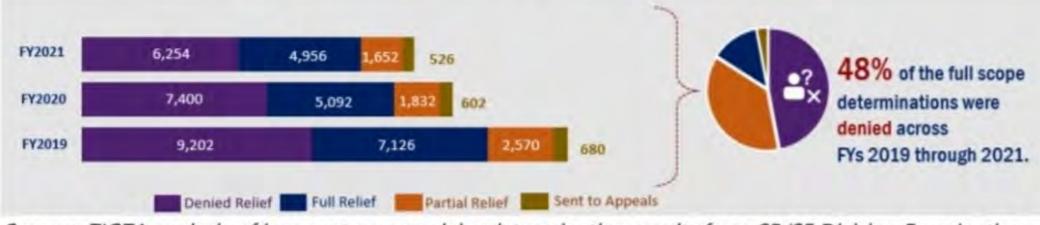
- 1. Preliminary Qualification
- II. Personal Information
- III. Involvement
- IV. Current Finances
- v. Victim of Domestic Violence
- vi. Any Additional Information
- VII. Request for Refund if Application Granted

CAUTION NOTICE: The IRS must contact the non-requesting spouse.

IRS DETEMINATIONS

Extracted from TIGTA Report No.: 2024-300-001

Figure 2: Results of Innocent Spouse Full Scope Determinations for FYs 2019 Through 2021



Source: TIGTA analysis of innocent spouse claim determination results from SB/SE Division Examination inventory reports for FYs 2019 through 2021.

APPEALS & TAX COURT

Extracted from TIGTA Report No.: 2024-300-001

Figure 1: Processing Flow Chart for Innocent Spouse Claims



Source: Treasury Inspector General for Tax Administration's (TIGTA) analysis of IRS innocent spouse claim processing.

Berman vs. Commissioner of Internal Revenue

USTC Cases, [95-1 USTC [50,117], Sam Berman, Petitioner, Eva Berman, Petitioner-Appellant v. Commissioner of Internal Revenue, Respondent-Appellee, Innocent spouse reliel: Significant benefit(Jan. 24, 1995), U.S. Court of Appeals, Second Circuit, (Jan. 24, 1995)

US Court of Appeals affirmed the Tax Court's decision denying innocent spouse relief because the "Taxpayer (i) had enjoyed a more affluent lifestyle and (ii) received a more lucrative divorce settlement than would have been the case absent the under-reporting of income on the joint tax returns."

- The taxpayers owned and operated a deli. As a result of an audit, the IRS determined that the taxpayers did not account for over \$1.7M gross income.
- The wife filed an application for innocent spouse relief that was denied because she "significantly benefited beyond normal support, either directly or indirectly, from the items omitted from gross income." citing *Hayman v. Commissioner* [<u>93-1 USTC</u> <u>50,272</u>], 992 F.2d 1256, 1262 (2d Cir. 1993), affg. [<u>Dec. 48,160(M)</u>] T.C. Memo. 1992-228
- Court of Appeals affirmed the denial because the wife enjoyed a substantial increase in wealth, bought and sold real property, bought large amounts of stock, added a greenhouse to their home, vacationed in Israel 4-6 weeks a year, vacationed in the Catskills, and significantly benefited from the divorce settlement.

► Go to www.irs.gov/Form8857 for instructions and the latest information.

IMPORTANT THINGS YOU SHOULD KNOW

- Do not file this form with your tax return. See Where To File in the instructions.
- See the instructions for this form and Pub. 971, Innocent Spouse Relief, for help in completing this form and for a description of the factors the IRS takes into account in deciding whether to grant innocent spouse relief. The Form 8857 instructions and Pub. 971 are available at *www.irs.gov*.
- Attach the complete copy of any document requested or that you otherwise believe will support your request for relief.
- The IRS is required by law to notify the person listed on line 6 that you have requested this relief. That person will have the opportunity to participate in the process by completing a questionnaire about the tax years you enter on line 3 (the years for which you want innocent spouse relief).
- The IRS will not disclose the following information: your current name, address, phone numbers, or employer(s).
- Note: If you petition the Tax Court to review your request for relief, the Tax Court may only be allowed to consider information you or the person on line 6 provided us before we made our final determination, additional information we included in our administrative file about your request for relief, and any information that is newly discovered or previously unavailable. Therefore, it is important that you provide us with all information you want us or the Tax Court to consider.

Note: If you need more room to write your answer for any question, attach more pages. Be sure to write your name and social security number on the top of all pages you attach.

Should you file this form? Part I Generally, both taxpayers who file a joint return are responsible, jointly and individually, for paying any tax, interest, or penalties from your joint return. If you believe the person with whom you filed a joint return should be solely responsible for an erroneous item or an underpayment of tax from your joint tax return, you may be eligible for innocent spouse relief. Innocent spouse relief may also be available if you were a resident of a community property state (see list of community property states in the instructions) and did not file a joint federal income tax return and you believe you should not be held responsible for the tax attributable to an item of community income. Do either of the paragraphs above describe your situation? 1 Yes, You can file this Form 8857. Go to line 2. □ No. Do not file this Form 8857, but go to line 2 to see if you can file a different form. Did the IRS take your share of a joint refund from any tax year to pay any of the following past-due debt(s) owed ONLY 2 by the person listed on line 6? Federal or state taxes Student loan (or other federal nontax debt) Child support Spousal support □ Yes. You may be able to get back your share of the refund. See Form 8379, Injured Spouse Allocation, and its instructions. Go to line 3 if you answered "Yes" to line 1. □ No. Go to line 3 if you answered "Yes" to line 1. If you answered "No" to line 1, do not file this form. If you determine you should file this form, enter each tax year you want innocent spouse relief. It is important to enter the correct 3 year. For example, if the IRS used your 2020 income tax refund to pay a 2018 joint tax liability, enter tax year 2018, not tax year 2020. Tax Year Tax Year Tax Year Tax Year Tax Year Tax Year Part II Tell us about yourself and the person listed on line 6 for the tax years you want relief. Is English your primary or preferred language? ☐ Yes. □ No. If "No," what is your primary or preferred language? Your social security number Your current name (see instructions) 5 Address where you wish to be contacted. Check here if you want the IRS to send all mail for you, including legal notices, 🗆 Apt. no. County Number and street or P.O. box City, town or post office, state, and ZIP code. If a foreign address, see instructions. Best or safest daytime phone number (between 6 a.m. and 5 p.m. Eastern time)

Check here if you consent to the IRS leaving a voicemail message at this number ►

our	current name			Your social security number
	If you need more room to write you er on the top of all pages you attact		on, attach more pages. Be sure t	to write your name and social securi
6	Who was your spouse for the ta or former spouses.	x years you want relie	f? File a separate Form 8857 for	tax years involving different spouse
	That person's current name	Social security number (if know		
	Current home address (number ar	nd street) (if known). If a	P.O. box, see instructions.	Apt. no.
	City, town or post office, state, an	d ZIP code. If a foreign	address, see instructions.	Daytime phone number (between 6 a.m. and 5 p.m. Eastern time)
7	What is the current marital statu Married and still living togethe		e person on line 6?	
	Married and living apart since			
	_	MM/DD/YYYY		
	Widowed since	MM/DD/YYYY	Attach a photocopy of the de	eath certificate and will (if one exists
	Legally separated since		Attach a photocopy of your	entire separation agreement.
		MM/DD/YYYY	Attach a photocopy of your	entire divorce decree
	Divorced since	MM/DD/YYYY	Attach a photocopy of your	
	 High school diploma or equiva Some college College degree or higher. List List any college-level business or 	any degrees you have l tax-related courses you	u completed ►	
9	mental or physical health proble	em now? If the answers plain the problem and v	s are not the same for all tax yea	l health problem or do you have a rs, explain below. bies of any documentation, such as
	medical bills or a doctor's rep ☐ No. Explain ►			
10	Is there any information you are	e afraid to provide on t	this form, but are willing to disc	cuss? 🗌 Yes 🗌 No
Par	Tell us if and how you we	ere involved with fin	ances and preparing returns	for the tax years you want relie
11	Did you intend to file a joint retu Explain why or why not ►	urn for the tax year(s)	listed on line 3? See instructions	s. 🗌 Yes 📙 No
				0057
				Form 8857 (Rev. 6-2

Form 8857 (Rev. 6-2021)

Page **2**

r current name Y e: If you need more room to write your answer for any question, attach more pages. Be sure to write ber on the top of all pages you attach. Describe your involvement in preparing the returns. Include details such as whether you preparation of joint returns (for example, by providing Forms W-2 or 1099, gathering receipts, cardocumentation), and whether you reviewed the returns before they were filed (and, if you did no were not involved in preparing the returns, did you agree to file the joint returns or did you know filed? Explain below. Explain what you knew about the income of the person on line 6 when the returns were file type of income that person had (such as wages, social security, gambling winnings, or self-emp amount of each type of income, and the year it was received. If that person had income you did returns were filed, explain why you did not know. If the person on line 6 was self-employed, exp helped that person with the books and records.	bared or assisted in the anceled checks, or other t review them, why not). If you that the joint returns were ed. For example, describe each loyment business income), the n't know about when the
ber on the top of all pages you attach. Describe your involvement in preparing the returns. Include details such as whether you preparation of joint returns (for example, by providing Forms W-2 or 1099, gathering receipts, cardocumentation), and whether you reviewed the returns before they were filed (and, if you did nowere not involved in preparing the returns, did you agree to file the joint returns or did you know filed? Explain below. Explain what you knew about the income of the person on line 6 when the returns were file type of income that person had (such as wages, social security, gambling winnings, or self-emp amount of each type of income, and the year it was received. If that person had income you did returns were filed, explain why you did not know. If the person on line 6 was self-employed, explained.	bared or assisted in the anceled checks, or other t review them, why not). If you that the joint returns were ed. For example, describe each loyment business income), the n't know about when the
preparation of joint returns (for example, by providing Forms W-2 or 1099, gathering receipts, ca documentation), and whether you reviewed the returns before they were filed (and, if you did no were not involved in preparing the returns, did you agree to file the joint returns or did you know filed? Explain below.	anceled checks, or other t review them, why not). If you that the joint returns were ed. For example, describe each loyment business income), the n't know about when the
type of income that person had (such as wages, social security, gambling winnings, or self-emp amount of each type of income, and the year it was received. If that person had income you did returns were filed, explain why you did not know. If the person on line 6 was self-employed, exp	loyment business income), the n't know about when the
type of income that person had (such as wages, social security, gambling winnings, or self-emp amount of each type of income, and the year it was received. If that person had income you did returns were filed, explain why you did not know. If the person on line 6 was self-employed, exp	loyment business income), the n't know about when the
Explain what you knew about any missing information on the returns when they were filed, anything on the returns that you knew was missing. Also, explain what you knew about any in returns, even if you did not know the information was incorrect when the returns were filed, and v anything on the returns that was incorrect. For example, if there was a deduction or credit on the facts that made the item not allowable as a deduction or credit? If the answer is not the same for	correct information on the whether you asked about returns, were you aware of any
If the returns showed a balance due to the IRS, explain when and how you thought the bal you didn't know the returns showed a balance due, explain why not.	ance due would be paid. If
Describe any financial problems you were having when the returns were filed, such as bar pay. If the financial problems were not the same for all tax years, explain below.	nkruptcy or bills you could not
Describe how you were involved in the household finances and your role in deciding how n explain whether you and the person on line 6 had joint accounts and how you or the person on li making deposits, paying bills from those accounts, or reviewing the monthly bank statements). E any separate accounts the person on line 6 had. If your involvement was not the same for all tax	ne 6 used them (such as by xplain what you knew about
For the years you want relief, did you or the person on line 6 incur any large purchases and/o If "Yes," describe any large expenses you or the person on line 6 incurred (such as trips, home i schooling), or any large purchases you or the person on line 6 made (such as automobiles, appl the types and amounts of the expenses and purchases and the years they were incurred or made	mprovements, or private iances, jewelry, etc.). Include

Form 8	3857 (Rev. 6-2021)	Page 4
Your	current name	Your social security number
	: If you need more room to write your answer for any question, attach more pages. Be sure to ber on the top of all pages you attach.	to write your name and social security
19	Did the person on line 6 transfer any assets to you? 📋 Yes 📋 No	
	If "Yes," list the assets (money or property, such as real estate, stocks, bonds, or other pro- transferred to you. Include the dates they were transferred and their fair market value on the was secured by any debt (such as a mortgage on real estate), explain who was responsible how much was owed on the debt at the time of transfer, and whether the debt has been s transferred to you. If you no longer possess or own the assets, explain what happened to	he dates of transfer. If the property le for making payments on the debt, atisfied. Explain why the assets were

Part IV Tell us about your current financial situation.

20 Tell us about your assets. Your assets are your money and property. Property includes real estate, motor vehicles, stocks, bonds, and other property that you own. In the table below, list the amount of cash you have on hand and in your bank accounts. Also, list each item of property, the fair market value (as defined in the instructions) of each item, and the balance of any outstanding loans you used to acquire each item.

Description of Asset	Fair Market Value	Balance of Any Outstanding Loans You Used To Acquire the Asset		

21 How many people are you currently supporting, including yourself?

22

Monthly Income - If famil	y or frien	ds are h	elpin	g to	supp	ort y	ou,	incl	ude	the	amo	ount	of	sup	por	t as	gif	ts belo	w. Amou	int
Gifts																				
Wages (gross pay)																	•			
Pensions																	•			
Unemployment																	•	• •		
Social security																	•			
Government assistance,	such as	housir	ng, fo	od s	stam	ps, g	grar	nts,	etc											
Alimony														•		•		• •		
Child support													•			•	•			
Self-employment busine	ss incon	ne .								•					•	•	•			
Rental income															•	•	•			
Interest and dividends																	•	• •		
Other income, such as d	isability	payme	nts, g	gaml	bling	, wir	nin	gs,	etc	. Li	st ea	ich	typ	e b	elo	w:				
Туре																				
Туре																			<u></u>	
Type																				
												•	Tot	al N	Noi	nth	ly I	ncom	е	

Form 8857 (Rev. 6-2021)

te: If you need more room to write your answer for any question, attach month wher on the top of all pages you attach.	ore pages. De sure to w	The your name and social securit
Monthly Expenses – Enter all expenses, including expenses paid wit	h income from gifts.	Amount
Food and Personal Care:		
Food		· ·
Housekeeping supplies		
Clothing and clothing services		• •
Personal care products and services		
Transportation:		
Auto Ioan/lease payment, gas, insurance, licenses, parking, maintena	ance, etc	
Public transportation		
Housing and Utilities:		
Rent or mortgage		• •
Real estate taxes and insurance		· ·
Electric, oil, gas, water, trash, etc.		
Telephone and cell phone		· ·
Cable and Internet		
Medical:		
Health insurance premiums		· ·
Out-of-pocket expenses		
Other:		
Child and dependent care		· ·
Caregiver expenses		••
Income tax withholding (federal, state, and local)		· ·
Estimated tax payments		· ·
Term life insurance premiums		· ·
Retirement contributions (employer required)		••
Retirement contributions (voluntary)		· ·
Union dues		
Unpaid state and local taxes (minimum payment)		· ·
Student loans (minimum payment)		
Court-ordered debt payments (for example, court- or agency-order	ed child support, alimo	ony, and
garnishments). List each type below:		
Туре		
Туре		
Туре		
Miscellaneous		1

Part V Complete this part if you were (or are now) a victim of domestic violence or abuse. This information is not mandatory. See Pub. 971 for assistance. If you have concerns about your safety, please consider contacting the confidential 24-hour National Domestic Violence Hotline at 1-800-799-SAFE (7233), or 1-800-787-3224 (TTY), or 1-855-812-1001 (video phone, only for deaf callers).

23a Were you or a member of your family a victim of abuse or domestic violence by the person on line 6? (Abuse includes physical, psychological, sexual, emotional, or financial abuse, and can include the abuser making you afraid to disagree with him or her or causing you to fear for your safety.)

Yes. Complete the questions below. We will put a code on your separate account. This will enable us to respond appropriately and be sensitive to your situation.

Note: We will remove the code from your account if you request it. If you do not want us to put the code on your account check here.

No. If "No," go to Part VI.

Form 8857 (Rev. 6-2021)

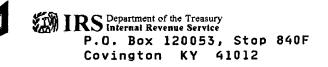
Form 8857 (Rev. 6-2021)

ane	6
aue	v

Form 8857 (Re	v. 6-2021)			Page O
Your curre	nt name			Your social security number
•	need more room to write your answer the top of all pages you attach.	for any question, attach more pages.	Be sure to	write your name and social security
or of	cribe the abuse you experienced, includ her members of your family. Explain ho n or the payment of the tax due on you	ow this abuse affected your ability to c	question the	e reporting of items on your tax
		~		
c Are⊻ □Y	you afraid of the person listed on line 6 es \Box No	(
	s the person listed on line 6 pose a dar	iger to you, your children, or other me	mbers of yo	our family?
To properly	es 🛛 No y evaluate your claim, please attach (copies of documentation you may h	ave, for ex	ample:
 Protect 	tion and/or restraining order;			
	reports;	o or coupselors:		
	al records, including those of therapist: r's report or letter;	s or courseiors,		
	photographs;			
	ement from someone who was a victim	of or witnessed the abuse or the resu	ults of the a	buse; and
	her documentation you may have.	· ·		
Part VI 24 Plea	Additional information se provide any other information you		a that this	form is about or any other years
duri	ng which you filed a joint return with	the person you listed on line 6 in de	etermining	whether it would be unfair to
hold	you liable for the tax.			
Part VII	Tell us if you would like a refunc	l <u>.</u>		
	hecking this box and signing this f			
and	if you already paid the tax. See instr		••••	
	inder: Please attach the complete co perture content of the content spouse relief.	py of any document requested or that	you otherv	vise believe will support your
		Caution:		
	By signing this form, you understand the	at, by law, we must contact the person c	on line 6. Se	e instructions for details.
Sign Here	Under penalties of perjury, I declare that I have belief, they are true, correct, and complete.	ve examined this form and any accompanying sch Declaration of preparer (other than taxpayer) is bas	edules and sta ed on all inform	tements, and to the best of my knowledge and nation of which preparer has any knowledge.
Keep a copy for your records.	Your signature			Date
Paid	Print/Type preparer's name	Preparer's signature	Date	Check if self-employed
Preparer	Firm's name			Firm's EIN ►
Use Only	Firm's address			Phone no.

Firm's address 🕨

Phone no.



. 🔨

Social Security Number:

41/n -

Form: 1040 Tax Year(s): 2012

Contact Person: Mrs. Rice Employee Identification Number: 1000197366 Contact Telephone Number: 855-851-2009 X448273 Fax Number: 855-277-9044

PRELIMINARY DETERMINATION

Dear Taxpayer:

We've made our decision about your request for relief as an innocent spouse.

We're sending you this letter to explain our decision. It will also explain what you can do if you disagree.

If you don't respond to this letter, we will make our final decision based on the information we have available.

Information about our decision:

We reviewed your claim stating the joint return for tax year(s) 2012 is/are invalid. It appears you intended to file a joint return. We determined it is valid for the reason(s) listed below.

You had a filing requirement for the year which you requested relief of the tax debt, but you didn't file your own separate return.

There was a history of filing joint returns.

Your income was reported on the joint return.

If you don't agree with our decision, you can request an appeals hearing within the next 30 days, from the date of this letter.

Enclosed is the Publication 5, Your Appeal Rights and How To Prepare a Protest If You Don't Agree. 



Equitable Relief (IRC Section 6015(f))

We propose to deny relief since you didn't meet the requirement(s) listed below.

Some of the debt is linked to you. We considered the part not linked to you. However, the factors listed below were considered and it was determined that it isn't unfair to hold you jointly responsible for the debt.

You didn't have a reasonable expectation the tax would or could be paid by the person with whom you filed the joint return.

You didn't comply with all income tax laws for the tax year(s) after the year(s) at issue in your claim.

What to do if you agree with our decision:

You may request a Form 870-IS, Waiver of Collection Restrictions in Innocent Spouse Cases, which by signing Form 870-IS, you are indicating you agree with the Service's determination and you don't intend to petition the Tax Court. Once the waiver is executed, we may begin collecting any taxes, interest and penalties you owe. Please call the contact person on page 1 to request a Form 870-IS.

What to do if you disagree with our decision:

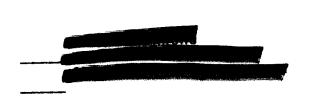
You can request an appeals hearing to disagree with our decision by filling out a Form 12509, Statement of Disagreement. Please return the completed form in the enclosed envelope.

We will issue a final determination letter if you don't contact us within 30 days, from the date of this letter.

The enclosed Publication 5, Your Appeal Rights and How To Prepare a Protest If You Don't Agree, has more information on how to request an Appeals hearing.

You can do the following to get additional information:

- Review Publication 971, Innocent Spouse Relief. Visit
 www.irs.gov or call 1-800-TAXFORM to get a copy of this
 publication.
- Call the contact person shown on the first page of this letter between 6:00 a.m. and 3:30 p.m.(ET), Mon - Fri, or



- Write to us at the address shown on the first page of this letter.

Please include a copy of this letter and a daytime phone number with the best time to call you when you write to us.

Daytime phone number ()_____

Best time to call during the day: _____

Remember to keep a copy of this letter for your records.

Sincerely yours,

Josemany Miller

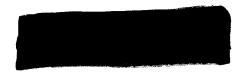
Rosemary L. Miller, Program Manager Innocent Spouse Operations

· ·

.

Enclosures: Copy of this letter Publication 5 Envelope Form 12509 Internal Revenue Service Appeals Office 1600 Stewart Avenue Suite 210 Westbury, NY 11590

Date: FEB 0 2 2017



Department of the Treasury

Person to Contact: David A Buhay Employee ID Number: 0177204 Tel: 516-247-5107 Fax: 855-226-9574 Refer Reply to:____

In Re: Innocent Spouse Request Taxpayer Identification Number:

Form Number:

1040 Tax Period(s) Ended: 12/2012 Last Day to File a Petition with the United States Tax Court:

CERTIFIED MAIL

FINAL APPEALS DETERMINATION

Dear Ms.

We considered the appeal concerning the determination on your Form 8857, *Request for Innocent Spouse Relief*, and have made our final determination. In this letter, we explain our decision and tell you steps you can take if you disagree with us.

For Tax Year(s):	You are:	Under IRC Section(s)
2012	Denied Relief	6015(f)

Because:

The information we have available does not show you meet the requirements for relief.

You did not show it would be unfair to hold you responsible.

What to Do if You Disagree With Our Decision:

If you disagree with our decision, you can file a petition with the United States Tax Court to review our denial. You must file your petition within 90 days from the date of this letter. If you intend to file a petition, you should do so promptly. PLEASE NOTE: The law sets the time you are allowed to file your petition; the IRS cannot change the time period. The law requires the Service to continue to charge interest and the failure to pay penalty (if it applies) on any unpaid

taxes.

Send your petition and a copy of this letter within 90 days from the date of this letter to:

United States Tax Court 400 Second Street, NW Washington, DC 20217

A copy of this letter is provided for your convenience. Keep the original letter for your records. Make sure your envelope has the proper address and postage.

In addition to the regular procedures for filing a petition, the United States Tax Court has simplified procedures for small cases. You are eligible for the small case procedures if the total relief sought in the petition, i.e., the amount of tax, interest, and penalties, including accrued but unassessed interest and penalties for all years, does not exceed \$50,000, calculated as of the date the petition is filed. If you use the simplified procedure, you cannot appeal the Tax Court's decision. To get a copy of the rules for filing a petition, write to: Clerk, United States Tax Court, at the Tax Court address shown above, or access the Tax Court website at www.ustaxcourt.gov.

IF YOU HAVE ANY QUESTIONS:

- See Publication 971, *Innocent Spouse Relief (And Separation of Liability and Equitable Relief)*, for more information. Visit irs.gov or call 1-800-taxform to order a copy.
- Call, fax, or write to the contact person shown on this letter at the numbers or address provided.

Note: If the number is outside your local calling area, there will be a long distance charge to you.

Thank you for your cooperation.

Sincerely, John A. Koskinen Commissioner

By illia Southel

William P Barthel Appeals Team Manager

cc: Terence E. Smolev Esq.