

When “I Do” Turns Into “You Owe”

April 21, 2026

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Marriage is a partnership — but under the Internal Revenue Code, it is also a financial alliance with serious consequences. Only spouses can file a joint tax return under I.R.C. § 6013(a). And when they do, they are jointly and severally liable for the full tax bill. Not half; not a proportional share; but the whole thing. If taxes aren't paid, the IRS can track down or sue either spouse for 100% of the debt. For many couples, filing jointly offers lower taxes. But when a return has errors, omissions, or unpaid balances, a joint filing can suddenly become a source of unintentional, and profoundly unfair, exposure. Innocent Spouse Relief enables a “requesting spouse” to obtain relief from tax obligations that rightfully belong to the other spouse. I.R.C. has three pathways for relief. § 6015: (i) Traditional Relief; (ii) Separation-of-Liability Relief; and (iii) Equitable Relief. With each of these paths, however, there is a threshold rule: there must be a joint return.

Traditional Relief

Traditional relief is appropriate when a joint return includes an understated tax liability resulting from errors made by the other spouse's unreported income received or improper deductions or credits claimed. In the real world, scenarios can be shockingly audacious: the deduction of business expenses never paid; nondeductible state fines disguised as business write-offs; and personal pet costs described as “home office security.” To be eligible, the requesting spouse must demonstrate that they didn't know and had no reason to know about the understatement when they signed the return and that it would be inequitable to hold them responsible for 50% of the liability. Traditional relief is an issue for the spouse who legally signed the return in good faith and did not know the numbers were erroneous. The alleged innocent spouse running around using the other spouse's corporate credit card to pay for household groceries, children's clothing, and private school tuition can claim to be “innocent.” The request for Traditional relief typically must be made within two years of the IRS beginning collection activity.

Separation-of-Liability Relief

Separation-of-Liability Relief can be used by spouses whose marriage is ending or has ended. For this relief, a spouse wishing to claim is required to be divorced, legally separated, or widowed; have lived apart from the other spouse for at least 12 months before filing the request. The timing for relief under Separation-of-Liability Relief matters, too. The election must be made within two years of the start of collection activity by the IRS. The IRS can use Separation-of-Liability Relief to appropriately and equitably allocate the deficiency between the spouses based on who was responsible for its occurrence.

Equitable Relief

Sometimes, a spouse doesn't qualify neatly under the technical rules of Traditional or Separation-of-Liability Relief. Equitable relief is available for hard, more human situations where the rules lack the flexibility to capture unfairness. To be eligible, the requesting spouse needs to have filed a joint return, be ineligible under the other two provisions, file a timely claim (generally within the 10-year collection period), not been involved in fraud, and not engaged in fraudulent asset transfers.

Equitable relief exists even if a piece of liability is technically attributable to the requesting spouse, especially in situations involving abuse, financial control, or coercion. The IRS assesses all facts and circumstances, no single factor prevails.

- Marital status
- Economic hardship
- Knowledge or reason to know the tax would not be paid
- Legal obligations in a divorce decree
- Whether the requesting spouse significantly benefited
- Subsequent tax compliance
- Mental or physical health

In cases of abuse, especially when a spouse controlled finances or instilled fear of retaliation, the scales can tilt heavily in favor of relief.

Conclusion

A joint tax return is not a piece of paper. It's a legal imperative with actual repercussions. It's a wise financial move to consider. For some, it becomes an unpredictable liability tied to acts they didn't take in the first place and sometimes didn't even know were possible. Innocent Spouse Relief is there to correct that. It understands that fairness is important. And under good circumstances, it offers a powerful remedy for those who signed in trust but were stuck with the bill. Marriage can be shared, but injustice does not have to be.