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I.R.S. SPECIFICATIONS — TO BE REMOVED BEFORE PRINTING

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FORM 8857, PAGE 1 of 4
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Action	Date	Signature
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Revised proofs requested		

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Form **8857** (Rev. August 2006) Department of the Treasury Internal Revenue Service (99)

Request for Innocent Spouse Relief

(And Separation of Liability and Equitable Relief)

▶ Do not file with your tax return. ▶ See separate instructions.

OMB No. 1545-1596

Part I **Should you file this form?** You must complete this part for each tax year.

stet **Note.** It is important to request relief for the correct year. For example, if the IRS used your 2006 income tax refund to pay a 2004 tax amount you jointly owed, request relief for tax year 2004, not tax year 2006. Stet make up

		Tax Year 1		Tax Year 2		Tax Year 3		
1 Enter each tax year you want relief. You may request relief for up to 3 years on a single form. If you want relief for more than 3 years, fill out an additional form ▶	1							3
		Yes	No	Yes	No	Yes	No	
2 Did the IRS use your share of the joint refund to pay your spouse's past-due debt, such as federal tax, child support, or student loan? If "Yes," stop here; do not file this form for that tax year. Instead, file Form 8379. See instructions. If "No," continue	2	☐	☐	☐	☐	☐	☐	6
3 Did you file a joint return? If "Yes," request relief for that tax year, enter that year on line 6 below, and skip question 4. If "No," continue	3	☐	☐	☐	☐	☐	☐	9
4 If you did not file a joint return for that tax year, were you a resident of Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, or Wisconsin? If "Yes," request relief for that tax year and enter that year on line 6 below. If "No," stop here. Do not file this form for that tax year and do not enter that year on line 6 below	4	☐	☐	☐	☐	☐	☐	12

Important things you should know

that apply/

- Answer all the questions on this form, attach any necessary documentation, and sign on page 4. If you do not, the processing of your request may be delayed.
- By law, the IRS must contact the person who was your spouse for the years you want relief. There are no exceptions, even for victims of spousal abuse. Your personal information (such as your current name, address, and employer) will be protected. However, if you petition the Tax Court, your personal information may be released. See instructions for details.

Part II **Tell us about yourself**

5 Your current name (see instructions) 13		Your social security number 14	
Your current home address (number and street). If a P.O. box, see instructions. 15	Apt. no.	County 16	
City, town or post office, state, and ZIP code. If a foreign address, see instructions.		Best daytime phone number ( ) 17	

Part III **Tell us which types of relief you want and the years involved** ^ ≠ More than one type may apply

		Tax Year 1	Tax Year 2	Tax Year 3
6 If you answered "Yes" to questions 3 or 4 above for any tax year, enter that year here and go to line 7 ▶	6	18	19	20
(Equitable Relief Only) **7** **UNDERPAID TAX.** Check the box for each year your tax was underpaid if, for that year, you think it would be unfair to hold you responsible for the amount you owe. You have an underpaid tax if the tax owed on your return was not paid	7	21 ☐	22 ☐	23 ☐
8 **UNDERSTATED TAX.** Check the boxes for each type of relief you are requesting for understated tax. You have an understated tax if the IRS determined that your total tax should be more than the amount actually shown on the return.		24	25	26
a **Innocent spouse relief.** Check this box if your tax was understated and you did not know and had no reason to know that your tax was understated	8a	☐	☐	☐
b **Separation of liability relief.** Check this box if your tax was understated and you want to separate the amount you owe from the amount your spouse owes. You must be divorced, legally separated, or widowed, or living apart from your spouse at all times during the 12-month period before you file this form to be considered for this relief	8b	27 ☐	28 ☐	29 ☐
c **Equitable relief.** Check this box if your tax was understated and you think it would be unfair to hold you responsible for the amount you owe	8c	33 ☐	34 ☐	35 ☐
Caution. If you checked either 8a or 8b above, the IRS generally cannot collect the amount you owe until your request for each year is resolved. However, the time the IRS has to collect is extended. See *Collection Statute of Limitations* on page 3 of the instructions.		30	31	32
9 **Check the box for each year you would like a refund if you qualify for relief.** You may be required to provide proof of payment. See instructions	9	☐	☐	☐

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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.

Part IV Tell us about you and your spouse for the tax years you want relief

10 **Who was your spouse for the tax years you want relief?**

That person's current name 36	**Social security number** (if known) 37 : :
Current home address (number and street) (if known). If a P.O. box, see instructions. 38	Apt. no.
City, town or post office, state, and ZIP code. If a foreign address, see instructions.	Best daytime phone number ( ) 39

11 **What is the current marital status between you and the person on line 10?**

40

☐ Married and still living together

☐ Married and living apart since ___/___/___ MM DD YYYY

☐ Widowed since ___/___/___ MM DD YYYY Attach a photocopy of the death certificate and will (if one exists).

☐ Legally separated since ___/___/___ MM DD YYYY Attach a photocopy of your entire separation agreement.

☐ Divorced since ___/___/___ MM DD YYYY Attach a photocopy of your entire divorce decree.

Note. A divorce decree stating that your former spouse must pay all taxes does not necessarily mean you qualify for relief.

12 **What was the highest level of education you had completed when you filed the return(s)?**

41

☐ High school diploma, equivalent, or less

☐ Some college

☐ College degree or higher. List any degrees you have ▶ ....

List any college-level business or tax-related courses you completed ▶ 42 ....

13 **Were you a victim of spousal abuse for any of the tax years you want relief?**

43

☐ **Yes. Attach a statement** to explain the abuse and when it started. Provide photocopies of any documentation, such as police reports, a restraining order, a doctor's report or letter, or a notarized statement from someone who was aware of the situation.

☐ No.

14 **When you signed any of the returns, did you have a mental or physical health problem or do you have a mental or physical health problem now?**

44

☐ **Yes. Attach a statement** to explain the problem and when it started. Provide photocopies of any documentation, such as medical bills or a doctor's report or letter.

☐ No.

Part V Tell us how you were involved with finances and preparing returns for those tax years

15 **How were you involved with preparing the returns?** Check all that apply and explain, if necessary. If the answers are not the same for all the tax years, explain.

45

☐ You prepared or helped prepare the returns.

☐ You gathered receipts and cancelled checks.

☐ You gave tax documents (such as Forms W-2, 1099, etc.) to the person who prepared the returns.

☐ You reviewed the returns before you signed them.

☐ You did not review the returns before you signed them. Explain below.

☐ You were not involved in preparing the returns.

☐ Other ▶ ....

Explain how you were involved ▶ 46 ....

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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.

Part V *(Continued)*

16 When you signed the returns, were you concerned that any of the returns were incorrect or missing information? Check all that apply and explain, if necessary. If the answers are not the same for all the tax years, explain.

47
- ☐ You knew something was incorrect or missing, but you said nothing.
- ☐ You knew something was incorrect or missing and asked about it.
- ☐ You did not know anything was incorrect or missing.

48

Explain ▶ ....

17 When you signed any of the returns, what did you know about the income of the person on line 10?

- ☐ You knew that person had income.

49

List each type of income on a separate line. (Examples are wages, social security, gambling winnings, or self-employment business income) Enter each tax year and the amount of income for each type you listed. If you do not know any details, enter "I don't know."

Type of income	Who paid it to that person	Tax Year 1	Tax Year 2	Tax Year 3
	50	$	$	$
		$	$	$
		$	$	$

- ☐ You knew that person was self-employed and you helped with the books and records.
- ☐ You knew that person was self-employed and you did not help with the books and records.
- ☐ You knew that person had no income.
- ☐ You did not know if that person had income.

18 When you signed the returns, did you know any amounts were owed to the IRS for those tax years?

51
- ☐ Yes. Explain when and how you thought the amounts owed would be paid ▶ ....
- ☐ No.

19 When you signed any of the returns, were you having serious financial problems (for example, bankruptcy or bills you could not pay)?

52
- ☐ Yes. Explain ▶ ....
- ☐ No.
- ☐ Did not know.

20 For the years you want relief, tell us how you were involved in the household finances. Check all that apply. Explain if the answers are not the same for all the tax years.

53
- ☐ You knew the person on line 10 had separate accounts.
- ☐ You had joint accounts but you had limited use of them or did not use them. Explain below.
- ☐ You used joint accounts. You made deposits, paid bills, balanced the checkbook, or reviewed the monthly bank statements.
- ☐ You were involved in handling money for the household. For example, you paid bills or made decisions about household purchases.
- ☐ You were not involved in handling money for the household.
- ☐ Other ▶ ....

Explain anything else you want to tell us about your household finances ▶ ....

21 Has the person on line 10 ever transferred assets (money or property) to you? (For example, was something of value, such as real estate or stocks, put in your name rather than in that individual's name?)

54
- ☐ Yes. List the assets and the dates they were transferred. Explain why the assets were transferred ▶ ....
- ☐ No.

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Part VI Tell us about your current financial situation

22 Tell us the number of people currently in your household. Adults 55 Children 56

23 Tell us your current average monthly income and expenses for your entire household. Include income from everyone who lives with you.

Monthly income	Amount	Monthly expenses	Amount
Wages (Gross pay)	57	Federal, state, and local taxes deducted from your paycheck	69
Pensions	58	Rent or mortgage	70
Unemployment	59	Utilities	71
Social security	60	Telephone	72
Government assistance, such as housing, food stamps, grants	61	Food	73
Alimony	62	Car expenses, payments, insurance, etc.	74
Child support	63	Medical expenses, including medical insurance	75
Self-employment business income	64	Life insurance	76
Rental income	65	Clothing	77
Interest and dividends	66	Child care	78
Other income, such as disability payments, gambling winnings, etc. List the type below:		Public transportation	79
Type	67	Other expenses, such as real estate taxes, child support, etc. List the type below:	
Type		Type	80
Type		Type	
		Type	
Total ▶	68	Total ▶	81

Leave 1 pica space

move up

82

Please provide/0/ **24** ~~Do you have~~ any other information you want us to consider? ~~Yes~~ ~~No~~ If you need more room, ~~...~~ attach more pages.

~~(If "Yes," provide that information on a separate sheet of paper and attach it to the form.)~~

insert dash line

3/
3/

Caution

By signing this form, you understand that, by law, we must contact the person on line 10. See instructions for details.

Sign Here

Under penalties of perjury, I declare that I have examined this form and any accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Keep a copy for your records. ▶ Your signature 83 Date 84

Paid Preparer's Use Only Preparer's signature ▶ Date Check if self-employed ☐ Preparer's SSN or PTIN

Firm's name (or yours if self-employed), address, and ZIP code ▶ EIN Phone no. ( )

Be sure to write your name and social security number on the top of all pages you attach.

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Instructions for Form 8857

Department of the Treasury
Internal Revenue Service

(Rev. August 2006)

Request for Innocent Spouse Relief
(And Separation of Liability and Equitable Relief)

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions

What's New

Form 8857 has been revised to reduce the number of mistakes made in preparing it (such as requesting relief for the wrong tax year) and to help us process the form faster.

Note. In these instructions, the term "your spouse or former spouse" means the person who was your spouse for the year(s) you want relief. This is the person whose name you enter on line 10.

Purpose of Form

When you file a joint income tax return, both you and your spouse are jointly and individually responsible for the tax. This is called joint and several liability. You are jointly and severally liable even if you later divorce and the divorce decree states that your former spouse will be solely responsible for the tax.

If you believe that only your spouse or former spouse should be held responsible for the tax, you can request relief from the tax liability, plus related penalties and interest. To request relief, you must file Form 8857. The IRS will use the information you provide on the form and any attachments to determine if you are eligible for relief. If the IRS needs additional information, you will be contacted.

Married people who did not file joint returns, but who live in community property states may also request relief. Community property states are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, or Wisconsin. See *Community Property Laws* later. lf

Situations in Which You Should Not File Form 8857

Do not file Form 8857 for any tax year to which the following situations apply. Do not file the form even if you check "Yes" on line 3 or 4 for that year.
• A court of competent jurisdiction has issued, after July 22, 1998, a final decision on your tax liability in a prior proceeding and relief from joint and several liability was an issue in that proceeding, or you meaningfully participated in that proceeding and could have requested relief from joint and several liability.
• You entered into an offer in compromise with the IRS.
• You entered into a closing agreement with the IRS that disposed of the same liability for which you want to seek relief. However, see Pub. 971 for an exception that applies to TEFRA partnership proceedings.
• You check "Yes" on line 2. See instructions for line 2 on page 3.

The IRS Must Contact Your Spouse or Former Spouse

By law, the IRS must contact your spouse or former spouse. There are **no** exceptions, even for victims of spousal abuse.

We will inform your spouse or former spouse that you filed Form 8857 and will allow him or her to participate in the process. If you are requesting relief from joint and several liability on a joint return, the IRS must also inform him or her of its preliminary and final determinations regarding your request for relief.

However, to protect your privacy, the IRS will not provide your personal information (for example, your current name, address, phone number(s), information about your employer, your income or assets) or any other information that does not relate to making a determination about your request for relief from liability.

CAUTION *If you petition the Tax Court (explained on page 2), your spouse or former spouse may see your personal information.*

When To File

You should file Form 8857 as soon as you become aware of a tax liability for which you believe only your spouse or former spouse should be held responsible. The following are some of the ways you may become aware of such a liability.
• The IRS is examining your tax return and proposing a deficiency.
• The IRS sends you a notice.

However, you must file Form 8857 no later than 2 years after the first IRS attempt to collect the tax from you that occurs after July 22, 1998. (But see *Caution* below for an exception.)

Collection activities that may start the 2-year period are:
• The IRS offset your income tax refund against an amount you owed on a joint return for another year and the IRS informed you about your right to file Form 8857.
• The filing of a claim by the IRS in a court proceeding in which you were a party or the filing of a claim in a proceeding that involves your property. This includes the filing of a proof of claim in a bankruptcy proceeding.
• The filing of a suit by the United States against you to collect the joint liability.
• The issuance of a section 6330 notice, which notifies you of the IRS' intent to levy and your right to a collection due process (CDP) hearing.

CAUTION *If you are requesting relief based on community property laws, a different filing deadline applies. See* Relief from liability arising from community property law *on page 2.*

Where To File

Do not file Form 8857 with your tax return or fax it to the IRS. Instead, see below.

IF . . .	THEN file Form 8857 with . . .
You are meeting with an IRS employee for an examination, examination appeal, or collection	That IRS employee.
You received an IRS notice of deficiency, and the 90-day period specified in the notice has not expired*	The IRS employee named in the notice. Attach a copy of the notice. **Do not** file Form 8857 with the Tax Court.
Neither situation above applies to you	**Internal Revenue Service Stop 840F, P.O. Box 120053 Covington, KY 41012**

*Before the end of the 90-day period, you should file a petition with the Tax Court, as explained in the notice. By doing so, you preserve your rights if the IRS is unable to properly consider your request before the end of the 90-day period. Include the information that supports your position, including when and why you filed Form 8857 with the IRS, in your petition to the Tax Court. The time for filing with the Tax Court is not extended while the IRS is considering your request

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Community Property Laws

Generally, you must follow community property laws when filing a tax return if you are married and live in a community property state. Community property states are: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin. Generally, community property laws provide that you and your spouse are both entitled to one-half of your total community income and expenses. If you and your spouse filed a joint return in a community property state, you are both jointly and severally liable for the total liability on the return. If you request relief from joint and several liability, state community property laws are not taken into account in determining whether an item belongs to you or your spouse or former spouse.

If you and your spouse filed separate returns, each of you must report one-half of your total community income and expenses on your separate returns. See Pub. 555, Community Property, for details.

If you were married, but did not file a joint return in a community property state and are now liable for an underpaid or understated tax, you have two ways to get relief.

1. Relief from liability arising from community property law. You are not responsible for the tax related to an item of community income if **all** the following conditions exist.
- You did not file a joint return for the tax year.
- You did not include the item in gross income on your separate return.
- rc Under section 879(a), the item was income that belonged to ~~your spouse or former~~ spouse. For details, see *Community Property Laws* in Pub. 971.
- You establish that you did not know of, and had no reason to know of, that item.
- Under all facts and circumstances, it would not be fair to include the item in your gross income.

rc If you meet the above conditions, write "Innocent Spouse Relief Under IRC 66(c)" across the top of Form 8857. Complete lines 6, 8a, ~~and 9 in Part~~ III and Parts IV–VI.

You must file Form 8857 no later than 6 months before the expiration of the period of limitations on assessment (including extensions) against your spouse or former spouse for the tax year for which you are requesting relief. However, if the IRS begins an examination of your return during that 6-month period, the latest time for requesting relief is 30 days after the examination begins.

2. Equitable relief. If you do not qualify for the relief described above and are now liable for an underpaid or understated tax you believe should be paid only by your spouse or former spouse, you may request equitable relief. See the instructions for lines 7 and 8c on page 3.

What Happens After You File Form 8857

We will review your form for completeness and contact your spouse or former spouse to ask if he or she wants to participate in the process. Generally, once we have all of the necessary information to make a decision, we will send a preliminary determination letter to you and your spouse or former spouse. If neither of you appeals the decision, we will issue a final determination letter to both of you.

Note. If you did not file a joint return for the year you are requesting relief, we will send the determination letters only to you.

Tax Court review of request. You may be able to petition (ask) the Tax Court to review your request for relief if:
- The IRS sends you a final determination notice regarding your request for relief, or
- You do not receive a final determination notice from the IRS within 6 months from the date you filed Form 8857.

CAUTION *You may not be able to get Tax Court review of your claim if you seek equitable relief with respect to an underpayment of tax.*

The petition must be filed no later than the 90th day after the date the IRS mails you a final determination notice. If you do not file a petition, or if you file it late, the Tax Court cannot review your request for relief. See Pub. 971 for details on petitioning the Tax Court.

How To Get Help

See Pub. 971, Innocent Spouse Relief. To get Pub. 971 and other IRS forms and publications, go to *www.irs.gov* or call 1-800-TAX-FORM (1-800-829-3676).

The IRS can help you with your request. If you are working with an IRS employee, you can ask that employee, or you can call 1-800-829-1040.

You can use the Innocent Spouse Tax Relief Eligibility Explorer at *www.irs.gov*. Click on "Individuals," "Tax Information for Innocent Spouses," and "Explore if you are an Eligible Innocent Spouse."

Contacting your Taxpayer Advocate. If you have attempted to deal with an IRS problem unsuccessfully, you should contact your Taxpayer Advocate.

The Taxpayer Advocate independently represents your interests and concerns within the IRS by protecting your rights and resolving problems that have not been fixed through normal channels. While Taxpayer Advocates cannot change the tax law or make a technical tax decision, they can clear up problems that resulted from previous contacts and ensure that your case is given a complete and impartial review.

To contact your Taxpayer Advocate:
- Call the Taxpayer Advocate toll free at 1-877-ASK-TAS1 (1-877-275-8271).
- Call, write, or fax the Taxpayer Advocate office in your area.
- Call 1-800-829-4059 if you are a TTY/TDD user.
- Visit *www.irs.gov/advocate*.

For more information, see Pub. 1546, How To Get Help With Unresolved Tax Problems (now available in Chinese, Korean, Russian, and Vietnamese, in addition to English and Spanish).

Low Income Taxpayer Clinics. Low Income Taxpayer Clinics represent low-income taxpayers in federal tax controversies with the IRS for free or for a nominal charge. The clinics also provide tax education and outreach for taxpayers with limited English proficiency or who speak English as a second language. See Pub. 4134, Low Income Taxpayer Clinic List, for clinics in your area. It is available at *www.irs.gov* or by calling 1-800-TAX-FORM (1-800-829-3676).

Representation. You may either represent yourself or, with proper written authorization, have someone else represent you. Your representative must be someone who is allowed to practice before the IRS, such as an attorney, certified public accountant, or enrolled agent (a person enrolled to practice before the IRS). Use Form 2848, Power of Attorney and Declaration of Representative, to authorize someone else to represent you before the IRS.

Specific Instructions

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.

Part I

You **must** complete this part to determine if you should file Form 8857.

Line 2

Check "Yes" for any tax year to which all of the following apply.
- You filed a joint return for the year listed on line 1.
- At the time you filed the joint return, your spouse owed past-due federal tax, state income tax, child support, spousal support, or federal nontax debt, such as a student loan.
- The IRS used (offset) the refund to pay your spouse's past-due amount.

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If all three of the above apply, do not file Form 8857 for that tax year.

Note. You may be able to get back your share of the refund for that tax year if you file Form 8379, Injured Spouse Allocation.

If all three of the above do not apply, check "No" and go to line 3.

Part II

Line 5

Enter your current name, social security number, home address, and best daytime phone number to call you if we need more information. Also enter your county.

P.O. box. Enter your box number **only** if your post office does not deliver mail to your home.

Foreign address. Enter the information in the following order: City, province or state, and country. Follow the country's practice for entering the postal code. **Do not** abbreviate the country name.

Change of address. If you move after you file Form 8857, please use Form 8822, Change of Address, to notify the IRS of your new address.

Part III

Collection Statute of Limitations

Generally, the IRS has 10 years to collect an amount you owe. This is the collection statute of limitations. By law, the IRS is not allowed to collect from you after the 10-year period ends.

If you request innocent spouse relief (line 8a) or separation of liability relief (line 8b) for any tax year, the IRS cannot collect from you for that year while your request is pending. But interest and penalties continue to accrue. Your request is generally considered pending from the date the IRS receives your Form 8857 until the date your request is resolved. This includes the time the Tax Court is considering your request.

After your case is resolved, the IRS can begin or resume collecting from you. The 10-year period will be increased by the amount of time your request for relief was pending plus 60 days.

Line 7—Equitable Relief for Underpaid Tax

You may be allowed equitable relief if both of the following conditions are met.

- You have an underpaid tax. This is tax that is properly shown on your return but has not been paid.
- Taking into account all the facts and circumstances, the IRS determines you should not be held liable for the underpaid tax.

If you have an underpaid tax, you can only request equitable relief on line 7. Do not request any of the types of relief listed on lines 8a-8c.

Example. You and your former spouse filed a joint return that properly reflects your income and deductions but showed an unpaid balance due of $5,000. The underpaid tax is $5,000. You gave your former spouse $2,500 and he or she promised to pay the full $5,000, but paid nothing. There is still an underpaid tax of $5,000, for which you and your former spouse are both liable.

Additional information. For additional information on equitable relief, see Pub. 971 ~~and Rev. Proc. 2003-61~~. You can find Rev. Proc. 2003-61 on page 296 of Internal Revenue Bulletin ~~2003-32 at~~ *www.irs.gov/pub/irs-irbs/irb03-32.pdf.*

Lines 8a-8c—Relief for Understated Tax

You can request the types of relief on lines 8a-8c only if you have an understated tax.

You have an understated tax if the IRS determined that your total tax should be more than the amount actually shown on the return.

Example. You and your former spouse filed a joint return showing $5,000 of tax, which was fully paid. The IRS later examines the return and finds $10,000 of income that your former spouse earned but did not report. With the additional income, the total tax becomes $6,500. The understated tax is $1,500, for which you and your former spouse are both liable.

Line 8a—Innocent Spouse Relief

You may be allowed innocent spouse relief only if all of the following apply.

- You filed a joint return for the year(s) entered on line 6.
- There is an understated tax on the return(s) that is due to erroneous items (defined below) of the person with whom you filed the joint return.
- You can show that when you signed the return(s) you did not know and had no reason to know that the understated tax existed (or the extent to which the understated tax existed).
- Taking into account all the facts and circumstances, it would be unfair to hold you liable for the understated tax.

Erroneous items. Any income, deduction, credit, or basis is an erroneous item if it is omitted from or incorrectly reported on the joint return.

Partial innocent spouse relief. If you knew about any of the erroneous items, but not the full extent of the item(s), you may be allowed relief for the part of the understatement you did not know about.

Additional information. For additional information on innocent spouse relief, see Pub. 971.

Line 8b—Separation of Liability Relief

You may request separation of liability relief for any understated tax shown on the joint return(s) if the person with whom you filed the joint return is deceased or you and that person:

- Are divorced,
- Are legally separated, or
- Have lived apart at all times during the 12-month period prior to the date you file Form 8857.

See Pub. 504, Divorced or Separated Individuals, for details on divorce and separation.

Exception. If, at the time you signed the joint return, you knew about any item that resulted in part or all of the understated tax, then your request will not apply to that part of the understated tax.

Additional information. For additional information on separation of liability relief, see Pub. 971.

Line 8c—Equitable Relief

You may be allowed equitable relief if both of the following conditions are met.

- You have an understated tax, and
- Taking into account all the facts and circumstances, the IRS determines you should not be held liable for the understated tax.

Additional information. For additional information on equitable relief, see Pub. 971 and Rev. Proc. 2003-61. You can find Rev. Proc. 2003-61 on page 296 ~~of Internal~~ Revenue Bulletin 2003-32 at *www.irs.gov/pub/irs-irbs/irb03-32.pdf.*

Line 9—Refunds

You must indicate that you want a refund in order for the IRS to consider whether you are entitled to it. If you are granted relief, refunds are:

- Permitted under innocent spouse relief as explained later under *Limit on Amount of Refund.*
- Not permitted under separation of liability relief.
- Permitted in limited circumstances under equitable relief, as explained under *Refunds Under Equitable Relief.*

Proof Required

The IRS will only refund payments you made with your own money. However, you must provide proof that you made the payment with your own money. Examples of proof are a copy of your bank statement or a canceled check. No proof is required if your individual refund was used by the IRS to pay a tax you owed on a joint tax return for another year.

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Refunds Under Equitable Relief

In the following situations, you are eligible to receive a refund of certain payments you made.

Understated tax. If you are granted relief for an understated tax, you are eligible for a refund of certain payments made under an installment agreement that you entered into with the IRS, if you have not defaulted on the installment agreement. You are not in default if the IRS did not issue you a notice of default or take any action to end the installment agreement. Only installment payments made after the date you filed Form 8857 are eligible for a refund.

The amount of the refund is subject to the limit discussed later under *Limit on Amount of Refund.*

Underpaid tax. If you are granted relief for an underpaid tax, you are eligible for a refund of separate payments that you made after July 22, 1998. However, you are not eligible for refunds of payments made with the joint return, joint payments, or payments that your spouse (or former spouse) made. For example, withholding tax and estimated tax payments cannot be refunded because they are considered made with the joint return.

The amount of the refund is subject to the limit discussed next.

Limit on Amount of Refund

The amount of your refund is limited. Read the following chart to find out the limit.

IF you file Form 8857 . . .	THEN the refund cannot be more than . . .
Within 3 years after filing your return	The part of the tax paid within the 3 years (plus any extension of time for filing your return) before you filed Form 8857.
After the 3-year period, but within 2 years from the time you paid the tax	The tax you paid within the 2 years immediately before you filed Form 8857.

Line 10

Enter the current name and SSN of the person to whom you were married at the end of the year(s) listed on line 6.

P.O. box. Enter the box number **only** if:

- You do not know the street address or
- The post office does not deliver mail to the street address.

Foreign address. See the instructions for line 5 on page 3.

Sign Form 8857

The IRS cannot consider your Form 8857 if you do not sign it. If you do not sign it, we will return it to you. Also be sure to date it.

Keep a copy of the completed form for your records.

Paid Preparer Must Sign Form 8857

Generally, anyone you pay to prepare Form 8857 must sign it in the space provided. The preparer must give you a copy of Form 8857 for your records. Someone who prepares Form 8857 but does not charge you should not sign it.

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need it to determine the amount of liability, if any, of which you may be relieved. Internal RC Revenue Code section 6015 allows relief from liability. If you request relief of liability, you must give us the information requested on this form. Code section 6109 requires you to provide your social security number. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation, and to cities, states, and the District of Columbia for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. If you do not provide all the information in a timely manner, we may not be able to process your request.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by RC Code section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Learning about the law or the form, ~~16 min~~.; **Preparing the** 1hr., 9m **form,** ~~?? min~~.; and **Copying, assembling, and sending the form to the IRS,** ~~20 min.~~ 1hr, 3min.

If you have comments concerning the accuracy of this time estimate or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6406, Washington, DC 20224. **Do not** send the form to this address. Instead, see *Where To File* on page 1.

1hr. 58 min.