

¹SUPPORTING STATEMENT (Form 8857)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 3201(a) of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, 112 Stat. 685, 734 (RRA), enacted section 6015, which provides relief in certain circumstances from the joint and several liability imposed by section 6013(d)(3). Section 6015(b) and (c) specifies two sets of circumstances under which relief from joint and several liability is available. If relief is not available under section 6015(b) or (c), section 6015(f) authorizes the Secretary to grant equitable relief if, taking into account all the facts and circumstances, the Secretary determines that it is inequitable to hold a requesting spouse liable for any unpaid tax or any deficiency (or any portion of either). Section 66(c) provides relief from income tax liability resulting from the operation of community property law to taxpayers domiciled in a community property state who do not file a joint return. Section 3201(b) of RRA amended section 66(c) to add an equitable relief provision similar to section 6015(f).

2. USE OF DATA

The data on Form 8857 will be used to verify that the taxpayer qualifies for innocent spouse relief and that the amount is figured correctly.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to allow electronic filing of Form 8857 because the low volume of the form does not justify the cost of electronic enabling.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not applicable.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not applicable.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR.1320.5 (d) (2)

Not applicable.

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Form 8857.

In response to our **Federal Register Notice** dated **March 20, 2007 (72 FR 13159)**, we received no comments during the comment period concerning Form 8857.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

	<u>Number of Responses</u>	<u>Hours per Response</u>	<u>Total Hours</u>
Form 8857	50,000	4.81	

240,500

Estimates of annualized cost to respondents for the hour burdens shown are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register** Notice dated **March 20, 2007 (72 FR 13159)**, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information. However, we did not receive any responses from taxpayers on this subject. As a result, estimates of these cost burdens are not available at this time.

14. ESTIMATED ANNUAL COST TO THE FEDERAL GOVERNMENT

The primary cost to the government consists of the cost of printing this form. We estimate that the cost of printing the Form 8857 is \$60.

15. REASONS FOR CHANGE IN BURDEN

Major Changes (Form 8857)

Changes to the form reflect suggestions we received from members of the Innocent Spouse Process Improvement Team. The suggestions were based on tax law changes made to IRC section 6015 by Public Law 109-432, comments we received from the American Bar Association (ABA) and the Taxpayer Advocate Service (TAS), and the results of focus testing of the form.

Page 1

- We moved the Important things you should know box to the top of this part. Focus test.
- We added to Important things you should know, the sentence “Do not delay filing this form because of missing documentation” ABA
- We added a new bullet to Important things you should know directing taxpayers to How To Get Help in the separate instructions. TAS
- We moved the note that was at the top of the page into line 1. Focus test.

- We deleted Part III and lines 6, 7, and 8. We no longer need to know what types of relief are requested because under IRC section 6015(e) as amended by Public Law 109-432, Division D, section 408, collection activity and the collection statute of limitations are the same for all types of relief. All subsequent parts were renumbered.
- We moved the collection statute of limitations caution to follow line 1.
Focus test.
- We moved line 9, the refund question, to Part I and made it new line 2. All subsequent lines were renumbered.
- We added “or domestic violence” everywhere on the form where we used the term “spousal abuse.” ABA

Pages 2, 3, and 4

- On page 2, we added the question, “Did you sign the return?” (new line 11).
Subsequent lines were renumbered accordingly. ABA
- On pages 2 and 3, we added the sentence, “If the answers are not the same for all tax years, explain” to lines 9, 10, 11, 12, 14, 15, 16, and 17. ABA
- On page 4, we revised the text of line 21 to advise taxpayers to include money from gifts and we added gifts to the entries under Monthly income. ABA

Major Changes to the Instructions

Note. The instructions are now a separate product.

Page 1

- We added a What’s New to advise users of the changes to the form and of the meaning of the term “your spouse or former spouse” which is used throughout the instructions.
- We deleted the instructions to taxpayers to attach a statement explaining why they qualified for relief because the statement is no longer necessary.

- We deleted the reference to Form 12510 because it will be obsoleted when the July 2006 revision of Form 8857 is published.
- We added a section titled The IRS Must Contact Your Spouse or Former Spouse to advise taxpayers of this requirement and the treatment of a filer's personal information.

Page 2

- We added a section headed What Happens After You File Form 8857 to advise users of the claim process.
- We added a section, How To Get Help, which includes instructions on how to contact the Taxpayer Advocate and low income taxpayer clinics.

Pages 2, 3, and 4

The specific instructions have been changed to reflect the changes to the form.

Due to the above changes, there were 27 line items and 1 code reference added to Form 8857, increasing the burden hours to 240,500.

We are making this submission for renewal purposes.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB DATE IS INAPPROPRIATE

See attachment.

18. EXCEPTION TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable

Note: The following paragraph applies to all the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless the collection of information

displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by U.S.C. 6103.

OMB EXPIRATION DATE

We believe the public interest will be better served by not printing an expiration date on the form(s) in this package.

Printing the expiration date on the form will result in increased costs because of the need to replace inventories that become obsolete by passage of the expiration date each time OMB approval is renewed. Without printing the expiration date, supplies of the form could continue to be used.

The time period during which the current edition of the form(s) in this package will continue to be usable cannot be predicted. It could easily span several cycles of review and OMB clearance renewal. In addition, usage fluctuates unpredictably. This makes it necessary to maintain a substantial inventory of forms in the supply line at all times. This includes supplied owned by both the Government and the public. Reprinting of the form cannot be reliably scheduled to coincide with an OMB approval expiration date. This form may be privately printed by users at their own expense. Some businesses print complex and expensive marginally punched continuous versions, their expense, for use in their computers. The form may be printed by commercial printers and stocked for sale. In such cases, printing the expiration date on the form could result in extra costs to the users.

Not printing the expiration date on the form(s) will also avoid confusion among taxpayers who may have identical forms with different expiration dates in their possession.

For the above reasons we request authorization to omit printing the expiration date on the form(s) in this package.