

1Supporting Statement
Internal Revenue Service
Form 8857 and 8857/SP, Request for Innocent Spouse Relief
OMB # 1545-1596

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 Internal Revenue Code section 6015, which provides relief in certain circumstances from the joint and several liability imposed by section 6013(d)(3). Sections 6015(b) and (c) specify 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 information collected on Form 8857 in accordance with Internal Revenue Code section 6015 is used by the IRS to determine if the requestor qualifies for innocent spouse relief.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The form is available electronically.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

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

The collection of information requirements will not have a significant economic impact on a substantial number of small entities. This Information collection pertains to individuals.

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

Consequences of less frequent collection would not allow the IRS to determine if spousal relief is available to the requestor in accordance with Internal Revenue Code section 6015.

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

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

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

In response to the Federal Register notice dated January 11, 2023, (88 FR 1630), IRS received one comment letter from “Legal Services Center of Harvard Law” and one comment letter from the “Center For Taxpayers Rights”. IRS has forwarded the comments to the appropriate parties.

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

No payment or gift has been provided to any respondents.

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

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “ Information Returns Master File (IRMF) ” system and Privacy Act System of Records notices (SORN) has been issued for these systems under IRS 24.030–Customer Account Data Engine Individual Master File; and IRS 34.037–IRS Audit Trail and Security Records System. The Department of Treasury PIAs can be found at <http://www.treasury.gov/privacy/PIAs/Pages/default.aspx>

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The burden estimates is as follows:

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
IRC § 6015	Request for Innocent Spouse relief Form 8857	50,000	1	1	6.32	316,000
Totals		50,000				316,000

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUAL COST TO THE FEDERAL GOVERNMENT

The Federal government cost estimate is based on a model that considers the following three cost factors for each information product: aggregate labor costs for development, including annualized start up expenses, operating and maintenance expenses, and distribution of the product that collects the information.

The government computes cost using a multi-step process. First, the government creates a weighted factor for the level of effort to create each information collection product based on variables such as; complexity, number of pages, type of product and frequency of revision. Second, the total costs associated with developing the product such as labor cost, and operating expenses associated with the downstream impact such as support functions, are added together to obtain the aggregated total cost. Then, the aggregated total cost and factor are multiplied together to obtain the aggregated cost per product. Lastly, the aggregated cost per product is added to the cost of shipping and printing each product to IRS offices, National Distribution Center, libraries and other outlets. The result is the Government cost estimate per product.

The government cost estimate for this collection is summarized in the table below.

Product	Aggregate Cost per Product (factor applied)		Printing and Distribution		Government Cost Estimate per Product
Form 8857	30,537	+	0	=	30,537
Form 8857 Instructions	5,034	+	756	=	5,790
Form 8857 (SP)	23,490	+	0	=	23,490
Form 8857 (SP) Instructions	5,034	+	0	=	5,034
Grand Total	64,095		0		64,851
Table costs are based on 2022 actuals obtained from IRS Chief Financial Office and Media and Publications					
* New product costs will be included in the next collection update.					

15. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. The IRS is making this submission to renew the OMB approval.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

17. REASONS WHY DISPLAYING THE OMB DATE IS INAPPROPRIATE

IRS believes that displaying the OMB expiration date is inappropriate because it would cause confusion by leading taxpayers to believe that the form sunsets as of the expiration date. Taxpayers may not be aware that the IRS intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTION TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement for this collection.

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.