MiSEA CONFERENCE

NOVEMBER 16TH, 2015

MARC J. DOMBROWSKI, EA

INJURED SPOUSE VS INNOCENT SPOUSE-THE BASICS

There is a large misconception between Innocent Spouse (IRS F8857) and Injured Spouse (F8379). Injured Spouse is for people who marry into a past problem. Innocent Spouse is for people who are together, file MFJ and then a liability occurs. Injured Spouse is more common and simpler. A newly married couple comes into your office to file MFJ. During the interview, you discover that the husband owes back taxes and hasn't gotten a refund in years. The new wife would be "injured" by the IRS taking her refund. The IRS/US Treasury and the state will "offset" a refund or credit that the client is to be paid against any outstanding liabilities that the taxpayer has. The new wife would be "injured" by the IRS taking the refund for her husband's past debts. She doesn't want to be injured she wants her portion of the refund. You would prepare the return as normal and fill in F8379 in your software.

This form (C1) will allocate income. Depending on your software it may be prefilled in, once selected. Review the form and make changes as appropriate. You may have to make decisions on odd numbered dependents. If you filled in the 1040 input screens correctly (labeling T and S for Taxpayer and Spouse). this will save you from work later. The form does not calculate the separated refund. The IRS and State will issue letters to designate their calculated refund.

Innocent Spouse is much more complicated (C2). Do yourself a favor and don't try to prejudge an Innocent Spouse case. Simply put there are two successful situations.

1) A couple is still together but there was an audit of a MFJ 1040 and one of them had no reason to know of the additional income or situation that created liability: think "Mob Wife".

2) A couple files MFJ 1040 and there is a liability. They divorce and there were deceptive circumstances around the payment of the 1040 liability. The successful spouse must prove that they had no reason to suspect that the tax was not paid. This is not automatic. The IRS will need to be shown that the requesting spouse was kept from the family finances. The IRS is looking for proof of domestic abuse and duress. I had a slam-dunk 8857 when I showed the IRS the pictures of the crushed automobile and police reports that demonstrated that the requesting spouse had been run off the road and her car smashed on all sides by a crazed ex-husband.

As part of the decision process, the IRS must make a current financial hardship determination. The question must be asked "will the repayment of this debt cause the requesting spouse an immediate hardship?" This is a fairly basic "income versus expense" and "assets versus liabilities" review.

Once an 8857 has been filed, the IRS account transcripts are "zeroed out" for the joint liability and two new Separate Assessments are created (one for each spouse). Be careful not to think that your 8857 has been successful simply because the transcripts no show a zero balance (C7).

The non-requesting spouse will also be given a questionnaire by the IRS to allow their version of the facts to be heard (C3). Neither party will be privy to the other's answers.

Final Determination letters are issued (C4 and C5). In this instance, the IRS allowed the relief for 2009 (C4) but (C5) in 2008 the Determination letter has a much different tone. This case was one of an IRA distribution. The IRA was in the name of the requesting spouse. The IRS took the position that an educated person who was not subject to any abuse was not able to control the funds of her own IRA distribution in a married household. Please read the (C5) letter's list of denial reasons (did the IRS leave anything out??? A simple "no" would have sufficed). The taxpayer is given a 90 day window to file a Tax Court Petition. (C6) is a letter to the non-requesting spouse indicating that their former spouse's 8857 has been denied.

Break out – fill in 8857 from fact pattern for Mr. and Mrs. Jones. Do not enter in addresses or SS#'s, etc.

Mrs. Jones is the requesting Spouse:

Tax year: 2010; filed on time, MFJ. Both taxpayers are 53 years old.

Mr. Jones passed away on 10/21/10, after a 3 month battle with cancer.

2010 1040 balance due return (paper filed by a CPA firm) shows $50,000 due, prepared and filed 4/15/11.

The balance due is the result of a $130,000 1099-R in the name of Mr. Jones. He pulled out the funds prior to his death and did not tell Mrs. Jones of the transaction.

Mrs. Jones is a history teacher at the local college, they have a young daughter. Mr. Jones had handled all the family financial matters but did not hide the day to day transactions from Mrs. Jones. She signed but never really looked at the 1040 returns during their marriage.

Mrs. Jones earns an above-average wage, but rents her house, leases her car.

At the time of the signing of the return, she was made aware of the $50,000 due and figured that she could pay the liability from funds of the IRA (if she could ever find out where the money was...).

In July, 2011 Mrs. Jones was informed by her late husband's brother that Mr. Jones had put the IRA funds into a Trust that he was the Executor of. The funds were solely to be used for the daughter's education and well being. The Trust did lend Mrs. Jones $10,000 to avoid eviction in 2011.

There was a life insurance pay-out of $35,000 which was quickly used up by Mrs. Jones for funeral costs, her daughter's private tuition and paying bills that had piled up while Mr. Jones was hospitalized.

Form **8379**
(Rev. Novermber 2012)
Department of the Treasury
Internal Revenue Service

Injured Spouse Allocation

► Information about Form 8379 and its separate instructions is at *www.irs.gov/form8379.*

OMB No. 1545-0074

Attachment Sequence No. 104

Part I **Should You File This Form?** You must complete this part.

1 Enter the tax year for which you are filing this form. ► 2013 Answer the following questions for that year.

2 Did you (or will you) file a joint return?
- ☒ **Yes.** Go to line 3.
- ☐ **No. Stop here.** Do not file this form. You are not an injured spouse.

3 Did (or will) the IRS use the joint overpayment to pay any of the following legally enforceable past-due debt(s) owed only by your spouse? (see instructions)
• Federal tax • State income tax • State unemployment compensation • Child support • Spousal support
• Federal nontax debt (such as a student loan)
- ☒ **Yes.** Go to line 4.
- ☐ **No. Stop here.** Do not file this form. You are not an injured spouse.

Note. If the past-due amount is for a joint federal tax, you may qualify for innocent spouse relief for the year to which the overpayment was applied. See *Innocent Spouse Relief,* in the instructions for more information.

4 Are you legally obligated to pay this past-due amount?
- ☐ **Yes. Stop here.** Do not file this form. You are not an injured spouse.

Note. If the past-due amount is for a joint federal tax, you may qualify for innocent spouse relief for the year to which the overpayment was applied. See *Innocent Spouse Relief,* in the instructions for more information.
- ☒ **No.** Go to line 5.

5 Were you a resident of a community property state at any time during the tax year entered on line 1? (see instructions)
- ☐ **Yes.** Enter the name(s) of the community property state(s) _____.
  Skip lines 6 through 9 and **go to Part II** and complete the rest of this form.
- ☒ **No.** Go to line 6.

6 Did you make and report payments, such as federal income tax withholding or estimated tax payments?
- ☒ **Yes.** Skip lines 7 through 9 and **go to Part II** and complete the rest of this form.
- ☐ **No.** Go to line 7.

7 Did you have earned income, such as wages, salaries, or self-employment income?
- ☐ **Yes.** Go to line 8.
- ☐ **No.** Skip line 8 and go to line 9.

8 Did (or will) you claim the earned income credit or additional child tax credit?
- ☐ **Yes.** Skip line 9 and **go to Part II** and complete the rest of this form.
- ☐ **No.** Go to line 9.

9 Did (or will) you claim a refundable tax credit (see instructions)?
- ☐ **Yes. Go to Part II** and complete the rest of this form.
- ☐ **No. Stop here.** Do not file this form. You are not an injured spouse.

Part II **Information About the Joint Tax Return for Which This Form Is Filed**

10 Enter the following information exactly as it is shown on the tax return for which you are filing this form.
The spouse's name and social security number shown first on that tax return must also be shown first below.

First name, initial, and last name shown first on the return	Social security number shown first	If Injured Spouse, check here ►
NICHOI _____ .		☐
First name, initial, and last name shown second on the return	**Social security number shown second**	**If Injured Spouse, check here ►**
SUZAN		☒

11 Check this box only if you are divorced or legally separated from the spouse with whom you filed the joint return and you want your refund issued in your name only . . . . . ☐

12 Do you want any injured spouse refund mailed to an address different from the one on your joint return? ☐ Yes ☒ No
If "Yes," enter the address. _____ C/
Number and street — City, town, or post office, state, and ZIP code

Part III **Allocation Between Spouses of Items on the Joint Tax Return** (see instructions)

Allocated Items	(a) Amount shown on joint return	(b) Allocated to injured spouse	(c) Allocated to other spouse
13 Income: a. Income reported on Form W-2	24,814.	4,055.	20,759.
b. All other income	200.	200.	0.
14 Adjustments to income		0.	0.
15 Standard deduction or Itemized deductions	12,200.	6,100.	6,100.
16 Number of exemptions	3	2	1
17 Credits (do not include any earned income credit)	1,111.	1,000.	111.
18 Other taxes		0.	0.
19 Federal income tax withheld	2,854.	500.	2,354.
20 Payments	0.	0.	0.

Part IV **Signature.** Complete this part only if you are filing Form 8379 by itself and not with your tax return.

Under penalties of perjury, I declare that I have examined this form and any accompanying schedules or 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 of this form for your records	Injured spouse's signature		Date	Phone number (optional)
Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	Check ☐ if self-employed / PTIN
	Firm's name ►			Firm's EIN ►
	Firm's Address ►			Phone no.

C1

Form **8857**
(Rev. September 2010)
Department of the Treasury
Internal Revenue Service (99)

Request for Innocent Spouse Relief

▶ See separate instructions.

OMB No. 1545-1596

Important things you should know

- **Do not file this form with your tax return.** See *Where To File* in the instructions.
- Answer all the questions on this form that apply, attach any necessary documentation, and sign on page 4. Do not delay filing this form because of missing documentation. See instructions.
- 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 or domestic violence. 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, unless you ask the Tax Court to withhold it. See instructions for details.
- If you need help, see *How To Get Help* in the instructions.

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

		Tax Year 1		Tax Year 2		Tax Year 3*	
1	**Enter each tax year you want relief.** It is important to enter the correct year. For example, if the IRS used your 2009 income tax refund to pay a 2007 tax amount you jointly owed, enter tax year 2007, not tax year 2009 . . . . . ▶ **Caution.** 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.	2008		2009			
2	**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 . . . . . ▶	☒		☐		☐	
		Yes	No	Yes	No	Yes	No
3	**Did the IRS use your share of the joint refund to pay any of the following past-due debts of your spouse: federal tax, state income tax, child support, spousal support, or federal non-tax debt such as a student loan?** • If "Yes," **stop here;** do not file this form for that tax year. Instead, file Form 8379, Injured Spouse Allocation. See instructions. • If "No," go to line 4 . . . . . ▶	☐	☒	☐	☒	☐	☐
4	**Was a return claiming married filing jointly status filed for the tax year listed on line 1? See instructions.** • If "Yes," skip line 5 and go to line 6. • If "No," go to line 5 . . . . . ▶	☒	☐	☒	☐	☐	☐
5	**If a joint return for that tax year was not filed, were you a resident of Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, or Wisconsin?** • If "Yes," see *Community Property Laws* on page 2 of the instructions. • If "No" on both lines 4 and 5, **stop here.** Do not file this form for that tax year . . . ▶	☐	☐	☐	☐	☐	☐

*If you want relief for more than 3 years, fill out an additional form.

Part II Tell us about yourself

6 Your current name (see instructions)
K J

Your social security number

Your current mailing address (number and street).
CT

Apt. no. | County

City, town or post office, state, and ZIP code. If a foreign address, see instructions.
LANCASTER, NY 14086

Best daytime phone number

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

7 **Who was your spouse for the tax years you want relief?** File a separate Form 8857 for tax years involving different spouses or former spouses.

That person's current name
CON

Social security number (if known)

Current home address (number and street) (if known). If a P.O. box, see instructions.

Apt. no.

City, town or post office, state, and ZIP code. If a foreign address, see instructions.
AKRON, NY 14001

Best daytime phone number

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 III (Continued)

8 **What is the current marital status between you and the person on line 7?**

- ☐ 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 10/21/2007 (MM DD YYYY) — Attach a photocopy of your entire separation agreement.
- ☒ Divorced since 9/1/2012 (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.

9 **What was the highest level of education you had completed when the return(s) were filed?** If the answers are not the same for all tax years, explain.

- ☐ High school diploma, equivalent, or less
- ☐ Some college
- ☒ College degree or higher. List any degrees you have ► EDUCATION MASTERS

List any college-level business or tax-related courses you completed ► _____

Explain ► _____

10 **Were you a victim of spousal abuse or domestic violence during any of the tax years you want relief?** If the answers are not the same for all tax years, explain.

- ☐ Yes. **Attach a statement** to explain the situation 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.

11 **Did you (or the person on line 7) incur any large expenses, such as trips, home improvements, or private schooling, or make any large purchases, such as automobiles, appliances, or jewelry, during any of the years you want relief or any later years?**

- ☐ Yes. **Attach a statement** describing (a) the types and amounts of the expenses and purchases and (b) the years they were incurred or made.
- ☒ No.

12 **Did you sign the return(s)?** If the answers are not the same for all tax years, explain.

- ☐ Yes. If you were forced to sign under duress (threat of harm or other form of coercion), check here ► ☐. See instructions.
- ☒ No. Your signature was forged. See instructions.

13 **When any of the returns were signed, did you have a mental or physical health problem or do you have a mental or physical health problem now?** If the answers are not the same for all tax years, explain.

- ☐ 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 IV Tell us how you were involved with finances and preparing returns for those tax years

14 **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 tax years, explain.

- ☐ You filled out or helped fill out 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 they were signed.
- ☒ You did not review the returns before they were signed. Explain below.
- ☒ You were not involved in preparing the returns.
- ☒ Other ► I GAVE MY W-2 TO MY HUSBAND, HE PREPARED 1040'S. I NEVER SIGNED

Explain how you were involved ► THE RETURNS. HE E-FILED THE RETURNS.

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 *(Continued)*

15 **When the returns were signed, what did you know about any incorrect or missing information?** Check all that apply and explain, if necessary. If the answers are **not** the same for all tax years, explain.

- ☐ 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.

Explain ▶

16 **When any of the returns were signed, what did you know about the income of the person on line 7?** Check all that apply and explain, if necessary. If the answers are **not** the same for all tax years, explain.

- ☒ You knew that person had income.

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
W-2	NORTH	$	$	$
		$	$	$
		$	$	$

- ☐ 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.

Explain ▶ I KNEW WHERE HE WORKED, BUT HAD NO IDEA OF HIS INCOME AMOUNT(S).

17 **When the returns were signed, did you know any amount was owed to the IRS for those tax years?** If the answers are **not** the same for all tax years, explain.

- ☐ Yes. Explain when and how you thought the amount of tax reported on the return would be paid ▶
- ☒ No.

Explain ▶ I WAS NOT MADE AWARE OF DISPOSITION OF RETURN. WE WERE ESTRANGED.

18 **When any of the returns were signed, were you having financial problems** (for example, bankruptcy or bills you could not pay)? If the answers are **not** the same for all tax years, explain.

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

Explain ▶

19 **For the years you want relief, how were you involved in the household finances?** Check all that apply. If the answers are **not** the same for all tax years, explain.

- ☒ You knew the person on line 7 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 made decisions about how money was spent. 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 ▶ WE WERE LIVING APART IN 2008 & 2009.

20 **Has the person on line 7 ever transferred assets (money or property) to you?** (Property includes real estate, stocks, bonds, or other property that you own.) See instructions.

- ☐ Yes. List the assets, the dates they were transferred, and their fair market values on the dates transferred. Explain why the assets were transferred ▶
- ☒ No.

CA

Part V Tell us about your current financial situation

21 **Tell us the number of people currently in your household.** Adults 2 Children 2

22 **Tell us your current average monthly income and expenses for your entire household.** If family or friends are helping to support you, include the amount of support as gifts under **Monthly income.** Under **Monthly expenses,** enter all expenses, including expenses paid with income from gifts.

Monthly income	Amount	Monthly expenses	Amount
Gifts		Federal, state, and local taxes deducted from your paycheck	1,896
Wages (Gross pay)	7,032	Rent or mortgage	700
Pensions		Utilities	650
Unemployment		Telephone	50
Social security			
Government assistance, such as housing, food stamps, grants		Food	800
Alimony		Car expenses, payments, insurance, etc.	700
		Medical expenses, including medical insurance	300
Child support		Life insurance	
Self-employment business income		Clothing	500
Rental income		Child care	
Interest and dividends		Public transportation	
Other income, such as disability payments, gambling winnings, etc. List the type below:		Other expenses, such as real estate taxes, child support, etc. List the type below:	
Type		Type IRS LOAN	500
Type		Type	
Type		Type	
Total ▶	7,032.00	**Total** ▶	6,096.00

23 **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. Tell us the amount of cash you have on hand and in your bank accounts. Also give a description of each item of property, the fair market value of each item, and the balance of any outstanding loans you used to acquire each item. Do not list any money or property you listed on line 20. If you need more room, attach more pages. Write your name and social security number on the top of all pages you attach.

2003 JEEP LIBERTY WORTH $5,000.
$1,500 BANK ACCOUNT CHECKING
$120 BANK SAVINGS ACCOUNT
$300 CREDIT UNION SAVINGS ACCOUNT

24 **Please provide any other information you want us to consider in determining whether it would be unfair to hold you liable for the tax.** If you need more room, attach more pages. Write your name and social security number on the top of all pages you attach.

WE DID NOT LIVE TOGETHER IN 2008 & 2009. 1040'S WERE FILED. I FILED MFJ BECAUSE I WAS TOLD THAT SINCE WE WERE DIVORCED THAT I WAS REQUIRED TO FILE WITH HIM. IN OCTOBER 2011 I RECEIVED AN IRS NOTICE CLAIMING MY HUSBAND'S INCOME THAT WOULD BE ADDED TO 2008 & 2009. SEE ATTACHED.

Caution

By signing this form, you understand that, by law, we must contact the person on line 7. 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 Date 1/17/13

Paid Preparer's Use Only

Preparer's signature Date 1/29/13 Check if self-employed ☐ Preparer's SSN or PTIN P00392864

Firm's name (or yours if self-employed), address, and ZIP code TAX HELP ASSOCIATES, INC 2801 Wehrle Dr. Ste 82 Buffalo, NY 14221 EIN 16-1440741 Phone no. 716.634.6200

C3

IRS Department of the Treasury
Internal Revenue Service

CINCINNATI OH 45999-0059

In reply refer to: 0
Sep. 03, 2013 LTR 3284C 0
200812 30
Input Op: 02979
BODC: SB

1567
WEST BEND

Social Security Number:

Form:	1040
Tax Year(s):	2008 2010 2011
Contact Person:	Mr. Proffitt
Employee Identification Number:	1000197344
Contact Telephone Number:	855-851-2009
Fax Number:	855-277-9044

Dear Taxpayer:

We received a Form 8857, Request for Innocent Spouse Relief from the person with whom you filed the joint return for the year(s) listed above. This is a request for relief from a debt on a joint income tax return. You have the right to participate by giving us additional information.

Participation won't change the amount of the tax debt that you owe. However, if you don't respond, we will use the information available to make a decision. If we grant relief to the person with whom you filed a joint return, you alone could be responsible for the amount owed. In addition, the amount you owe could increase if we refund amounts previously paid by the person who was your spouse.

X Please fill out Form 12508, Questionnaire for Non-Requesting Spouse. We need to hear from you within 30 days from the date of this letter. You may fax your form to us at the fax number shown on this letter or mail it in the enclosed envelope. Include a copy of this letter and keep the other copy for your records.

Y When a decision has been made, you will be notified by letter. If the person with whom you filed the joint return meets the requirements for full or partial relief, you will be given the opportunity to appeal that decision.

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 order a copy of this publication).

- Call the contact person shown on the first page of this letter between 6:00 a.m. and 4:30 p.m.(ET), or

C3

Form **12508**
(July 2008)

Questionnaire for Non-Requesting Spouse

We recognize that some of these questions involve sensitive subjects. However, we need this information to evaluate the circumstances of the claim and properly determine whether relief should be given. If this form is not completed and returned, the claim will be considered based on the information available to us.

Questions?
Call the IRS at 1-866-897-4270.

Part I Tell us about yourself

1.	Your Current Name	Your Social Security Number	
	Your Current Home Address (number & street)	Apt. No.	County WASHINGTON
	City, town or post office box, state and ZIP code	Best daytime phone number	

2. What is the current status between you and your spouse for the years that relief was requested? (On this form we refer to your spouse for the years that relief was requested as *that individual.*)

- ☐ Married and living together
- ☐ Married living apart since _____ (MM DD YYYY)
- ☒ Legally separated since 10/10/2010 (MM DD YYYY) Still in process of Divorce.
- ☐ Divorced since _____ (MM DD YYYY)
- ☐ Widowed since _____ (MM DD YYYY)

Note: A divorce decree stating you must pay all taxes does not necessarily mean that individual will qualify for relief.

Part II Tell us about filing the returns and your financial situation for the years listed on the letter. If the information is not the same for all tax years, please explain. 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.

3. How were both of you involved with preparing the returns during those tax years? Check all that apply and explain, if necessary. If the answers are not the same for all the years, explain.

You	That Individual	
☐	☒	Prepared or helped prepare the returns.
☐	☒	Gathered receipts and canceled checks.
☒	☐	Gave tax documents (such as W-2s, 1099s, etc.) to the person who prepared the returns.
☐	☐	Asked the person who prepared the returns to explain any items or amounts.
☐	☒	Reviewed the returns before signing them.
☒	☐	Did not review the returns before signing them.
☐	☐	Other

Explain, if necessary

insisted on doing all taxes. I used to have a cpa but fired him and took taxes into her own hands. She had all finances.

C3

4. When you signed the returns, were any amounts owed to the IRS for those years?
   - [ ] Yes. Explain how the amounts owed were to be paid
     Not to my knowledge.
   - [x] No

5. When that individual signed any of the returns, was he/she aware of any financial problems you were having (for example, bankruptcy or bills you could not pay)?
   - [ ] Yes. Explain
   - [x] No
   - [ ] Do not know

6. For those years, what kinds of accounts did you have? Check all that apply. Explain if the answers are not the same for all the years.

Joint	Separate	
[x]	[x]	Checking or money market
[ ]	[x]	Savings or certificate of deposit

How did that individual use those accounts? Check all that apply.

Joint	Separate	
[x]	[x]	Made deposits
[x]	[x]	Reviewed bank statements or balanced the checkbook
[x]	[x]	Paid bills
[x]	[x]	Knew how much money was in the account
[x]	[x]	Made withdrawals from the account
[ ]	[ ]	Did not know about the account
[ ]	[ ]	Did not use the account
[ ]	[ ]	Was not involved in handling money for the household

Explain, if necessary
I did not handle any Finances in 2008 - until the End of 2010

7. Did you ever transfer assets to that individual? (Did you put something of value, such as real estate or stocks, in that individual's name rather than in your own name?)
   - [ ] Yes. List the assets and the dates they were transferred. Explain why the assets were transferred.
   - [x] No

8. During those tax years, were you self employed?
   - [ ] Yes. Explain how that individual was involved in your business.
   - [x] No

C3

9. If no tax year(s) in question were audited, what items, if any, changed? Were the changed items yours or that individual's? (For example, unreported income, disallowed deductions, unclaimed credits)

I Do not know - She Recieved the mail.

10. If the audit results changed your business income or deductions on your tax return, did that individual help you in the business? If so how? If not, did that individual know about your business affairs? Explain.

N/A

11. If the items changed by the audit were yours, did that individual benefit from them? (Example, unreported income paid for a family vacation, car, jewelry, etc.) Explain.

N/A

12. Do you have any other information you want us to consider?

- is still holding tax info for matter and Irs records from these years., 2008, 2011, 2012. i dont have any documents to recieve from the previous years to adress these matters. I still dont know what I owe for 2010 or 2011?

SIGN HERE Under penalties of perjury, I declare that I have examined this statement and to the best of my knowledge it is true, correct, and complete.

Signature

9-27-2013
Date

Keep a copy for your records and return the original in the enclosed envelope.

C3

Department of the Treasury
Internal Revenue Service
P.O. Box 120053, Stop 840F
Covington KY 41012

In reply refer to: 02 :0
Sep. 18, 2013 LTR 5086C 3
0555# 7 200912 30 1
Input Op: - 00021208
BODC: NOBOD

Taxpayer
% MARC J DOMBROWSKI
2801 WEHRLE DR STE 2
BUFFALO NY 14221-7381

02872

Social Security Number: 05
051
Form: 8857
Tax Year(s): 2009

Contact Person: Mr. Nicely
Employee Identification Number: 1000197693
Contact Telephone Number: 1-855-851-2009 EXT 448113
Fax Number: 1-855-277-9042

FINAL DETERMINATION

Dear Taxpayer:

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

We granted you full relief of the debt. You'll no longer be responsible for the amount owed on the account.

If you filed a Form 8857, Request for Innocent Spouse Relief, for any Other tax years, it will be addressed in a separate letter.

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. You must file your petition within 90 days from the date of this letter. If you intend to file a petition, you should write promptly.

PLEASE NOTE: The law sets the time you are allowed to file your petition; the IRS can't change the time period. The law requires us to continue to charge interest and the failure to pay penalty (if it applies) on any unpaid taxes.

Send you petition and a copy of this letter to:
United States Tax Court
400 Second Street, NW
Washington, DC 20217

CY

02[illegible]
Sep. 18, 2013 LTR 5086C 3
55 ff 200912 30 1
Input Op: 02971

TAX Payer
% MARC J DOMBROWSKI
2801 WEHRLE DR STE 2
BUFFALO NY 14221-7381

Make sure your envelope has the proper address and postage.

For a copy of the rules for filing a petition,

- Write to:

Clerk, United States Tax Court
400 Second Street, NW
Washington, D.C. 20217

or

- Visit the Tax Court website at www.ustaxcourt.gov

You can do the following to get additional information:

- Review Publication 971, Innocent Spouse Relief, for more information. Visit www.irs.gov or call 1-800-TAXFORM (1-800-829-3676) to order a copy.
- Call the contact person shown on the first page of this letter between 7:30 a.m. and 4:00 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 hours we can reach you.

Daytime phone number ( )_____

Best time to call during the day: _____

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

Sincerely yours,

Antoinette M. Cross

Antoinette M. Cross, Acting
Field Director, Compliance Services

Enclosure(s):
Copy of this letter

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Department of the Treasury Internal Revenue Service
P.O. Box 120053, Stop 840F
Covington KY 41012

In reply refer to: 0
Sep. 18, 2013 LTR 5088C 3
SS# 200812 30 1
Input Op: 0297167
BODC: NOBOD

Taxpayer
% MARC J DOMBROWSKI
2801 WEHRLE DR STE 2
BUFFALO NY 14221-7381

02873

Social Security Number:

Form: 8857
Tax Year(s): 2008

Contact Person: Mr. Nicely
Employee Identification Number: 1000197693
Contact Telephone Number: 1-855-851-2009 EXT 448113
Fax Number: 1-855-277-9042

FINAL DETERMINATION

Dear Taxpayer:

We made our final 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.

We denied your request for relief under Equitable Relief IRC Section 6015(f) of the Internal Revenue Code since you did not meet some of the requirements listed below.

All of the debt is linked to you. Relief generally isn't allowed on tax you owe on your own income, deductions, credits or other items.

You received transferred assets from your spouse or ex-spouse as part of a fraudulent scheme or for the principal purpose of avoiding tax or the payment of tax.

You filed the return with fraudulent intent.

You weren't divorced, legally separated, widowed, or living apart from the person with whom you filed the joint return for 12 months prior to requesting relief.

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

The information submitted didn't establish you would experience an

C5

Taxpayer
% MARC J DOMBROWSKI
2801 WEHRLE DR STE 2
BUFFALO NY 14221-7381

economic hardship if relief wasn't granted.

You have a legal obligation to pay the tax.

The information submitted didn't establish you were in poor mental or physical health when you signed the return or when you requested relief.

The information submitted indicates you significantly benefitted from the unpaid tax or unreported income which was beyond normal support.

You didn't comply with all income tax laws for the tax years after the years at issue in your claim.

A review of the facts and circumstances didn't prove that holding you jointly responsible for the understatement of tax would be unfair.

If you filed a Form 8857, Request for Innocent Spouse Relief, for any other tax years, it will be addressed in a separate letter.

Your balance due at this time is $5,718.16. Penalties and interest will continue to accrue until the balance is paid in full.

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 write 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 us 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 to:
United States Tax Court
400 Second Street, NW
Washington, DC 20217

Make sure your envelope has the proper address and postage.

For a copy of the rules for filing a petition,

- Write to:

C-5

IRS Department of the Treasury
Internal Revenue Service
P.O. Box 120053, Stop 840F
Covington KY 41012

In reply refer to: 02'
Jan. 17, 2014 LTR 4985C 3
200812 30 1
Input Op: 0297 '6
BODC: WI

% MICHELLE D MCBRIDE
10425 W NORTH AVE STE 320
WAUWATOSA WI 53226-2400

010177

Social Security Number:

Form: 1040
Tax Year(s): 2008

Contact Person: Mrs. Guilkey
Employee Identification Number: 1000196004
Contact Telephone Number: 855-851-2009 X 448285
Fax Number: 855-277-9044

PRELIMINARY DETERMINATION

Dear Taxpayer:

We sent you an earlier letter informing you that the person with whom you filed the joint return had requested relief.

We're sending you this letter to explain our decision.

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

X We propose to deny relief from the tax liability based on the information available. However, the person with whom you filed the joint return can appeal our decision. You'll be notified if Appeals proposes to grant partial or full relief, and be given the opportunity to request an Appeals conference to present any relevant information before a final determination is made.

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 the publication.

- Call the contact person shown on the first page of this letter between 6:00 a.m. and 4:30 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 hours to call you if you write to us.

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Internal Revenue Service
United States Department of the Treasury

This Product Contains Sensitive Taxpayer Data

Account Transcript

Request Date: 09-12-2013
Response Date: 09-12-2013
Tracking Number: 10017

FORM NUMBER: 1040
TAX PERIOD: Dec. 31, 2008

TAXPAYER IDENTIFICATION NUMBER:
SPOUSE TAXPAYER IDENTIFICATION NUMBER:

RODNEY

--- ANY MINUS SIGN SHOWN BELOW SIGNIFIES A CREDIT AMOUNT ---

ACCOUNT BALANCE:	0.00	
ACCRUED INTEREST:	0.00	AS OF: Sep. 23, 2013
ACCRUED PENALTY:	0.00	AS OF: Sep. 23, 2013
ACCOUNT BALANCE PLUS ACCRUALS (this is not a payoff amount):	0.00	

** INFORMATION FROM THE RETURN OR AS ADJUSTED **

EXEMPTIONS:	04
FILING STATUS:	Married Filing Joint
ADJUSTED GROSS INCOME:	105,014.00
TAXABLE INCOME:	71,712.00
TAX PER RETURN:	7,655.00
SE TAXABLE INCOME TAXPAYER:	0.00
SE TAXABLE INCOME SPOUSE:	0.00
TOTAL SELF EMPLOYMENT TAX:	0.00

RETURN DUE DATE OR RETURN RECEIVED DATE (WHICHEVER IS LATER)	Apr. 15, 2009
PROCESSING DATE	Jun. 22, 2009

TRANSACTIONS

CODE	EXPLANATION OF TRANSACTION	CYCLE	DATE	AMOUNT
150	Tax return filed	20092308	06-22-2009	$7,655.00
n/a	70221-089-88360-9			
806	W-2 or 1099 withholding		04-15-2009	-$6,347.00

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C7

276	Penalty for late payment of tax	20092308	06-22-2009	$19.62
196	Interest charged for late payment	20092308	06-22-2009	$9.78
971	Notice issued CP 0014		06-22-2009	$0.00
971	Installment agreement established		08-24-2009	$0.00
670	Payment		09-25-2009	-$45.00
922	Review of unreported income		04-24-2011	$0.00
673	Payment		11-02-2009	-$50.00
670	Payment		12-04-2009	-$50.00
672	Removed payment CIVIL PENALTY 201001		09-25-2009	$55.00
673	Payment		09-25-2009	-$55.00
672	Removed payment CIVIL PENALTY 201001		11-02-2009	$50.00
670	Payment		01-27-2010	-$200.00
670	Payment		03-31-2010	-$50.00
706	Credit transferred in from 1040 200912		04-15-2010	-$533.40
971	Tax period blocked from automated levy program		02-21-2011	$0.00
971	No longer in installment agreement status		02-07-2011	$0.00
290	Additional tax assessed	20111808	05-16-2011	$1,016.00
n/a	16254-515-65587-1			
971	Notice issued CP 0021		05-16-2011	$0.00
971	Collection due process Notice of Intent to Levy -- issued		09-28-2011	$0.00
971	Collection due process Notice of Intent to Levy -- issued		09-28-2011	$0.00
971	Collection due process Notice of Intent to Levy -- return receipt signed		10-01-2011	$0.00
971	Collection due process Notice of Intent to Levy -- refused or unclaimed		10-24-2011	$0.00
520	Bankruptcy or other legal action filed		12-30-2011	$0.00
971	Bankruptcy notification received		04-10-2012	$0.00
971	Bankruptcy notification received		04-10-2012	$0.00
400	Transfer-out		05-07-2012	-$1,475.00
402	Transfer-in		05-07-2012	$1,475.00
971	Balance transferred to split liability account		05-21-2012	$0.00
604	Write-off of balance due		05-21-2012	-$1,475.00
521	Removed bankruptcy or other legal action		04-04-2012	$0.00
971	Innocent spouse claim received		08-05-2013	$0.00

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Form **8857**
(Rev. January 2014)
Department of the Treasury
Internal Revenue Service (99)

Request for Innocent Spouse Relief

► **Information about Form 8857 and its separate instructions is at *www.irs.gov/form8857.***

OMB No. 1545-1596

Important things you should know

- **Do not file this form with your tax return.** See *Where To File* in the instructions.
- Review and follow the instructions to complete this form. Instructions can be obtained at *www.irs.gov/form8857* or by calling 1-800-TAX-FORM (1-800-829-3676).
- While your request is being considered, the IRS generally cannot collect any tax from you for the year(s) you request relief. However, filing this form extends the amount of time the IRS has to collect the tax you owe, if any, for those years.
- The IRS is required by law to notify the person on line 5 that you 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. This will be done before the IRS issues preliminary and final determination letters.
- The IRS will not disclose the following information: your current name, address, phone numbers, or employer.

Part I Should you file this form?

Generally, both you and your spouse are responsible, jointly and individually, for paying any tax, interest, or penalties from your joint return. If you believe your current or former spouse 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.

1 **Do either of the paragraphs above describe your situation?**

☐ Yes. You should file this Form 8857. Go to question 2.

☐ No. Do not file this Form 8857, but go to question 2 to see if you need to file a different form.

2 **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 by your spouse?** • Child support • Spousal support • Student loan (or other federal nontax debt) • Federal or state taxes

☐ Yes. You may be able to get back your share of the refund. See Form 8379, Injured Spouse Allocation, and the instructions to that form. Go to question 3 if you answered "Yes" to question 1.

☐ No. Go to question 3 if you answered "Yes" to question 1. If you answered "No" to question 1, do not file this form.

3 **If you determine you should file this form, enter each tax year you want innocent spouse relief.** It is important to enter the correct year. For example, if the IRS used your 2011 income tax refund to pay a 2009 joint tax liability, enter tax year 2009, not tax year 2011.

Tax Year _____ Tax Year _____ Tax Year _____
Tax Year _____ Tax Year _____ Tax Year _____

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

4 Your current name (see instructions) | **Your social security number**

Address where you wish to be contacted. If this is a change of address, see instructions.

Number and street or P.O. box | Apt. no. | **County**

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)

5 **Who was your spouse for the tax years you want relief?** File a separate Form 8857 for tax years involving different spouses or former spouses.

That person's current name | **Social security number** (if known)

Current home address (number and street) (if known). If a P.O. box, see instructions. | Apt. no.

City, town or post office, state, and ZIP code. If a foreign address, see instructions. | Daytime phone number (between 6 a.m. and 5 p.m. Eastern Time)

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 II Tell us about yourself and your spouse for the tax years you want relief *(Continued)*

6 What is the current marital status between you and the person on line 5?

- ☐ 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.

7 What was the highest level of education you had completed when the return(s) were filed? If the answers are **not** the same for all tax years, explain.

- ☐ Did not complete high school
- ☐ High school diploma or equivalent
- ☐ Some college
- ☐ College degree or higher. List any degrees you have ▶ _____

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

Explain ▶ _____

8 Were you or other members of your family a victim of spousal abuse or domestic violence, or suffering the effects of such abuse during any of the tax years you want relief or when any of the returns were filed for those years?

- ☐ Yes. If you want the IRS to consider this information in making its determination, complete Part V of this form in addition to other parts of the form. First read the instructions for Part V, to understand how the IRS will proceed with evaluating your claim for relief in these circumstances.

If you checked "Yes" above, we will put a note on your separate account. This will enable us to respond appropriately and be sensitive to your situation. We will remove the note from your account if you request it (as explained in the instructions).
If you do not want us to put a note on your account, check here . . . . . ▶ ☐

- ☐ No. Complete the other parts of this form except for Part V.

9 When any of the returns listed on line 3 were filed, did you have a mental or physical health problem or do you have a mental or physical health problem now? If the answers are **not** the same for all tax years, explain below.

- ☐ 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.

Explain ▶ _____

10 Is there any information you are afraid to provide on this form, but are willing to discuss?

☐ Yes ☐ No

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

11 Did you agree to file a joint return? ☐ Yes ☐ No

Explain why or why not ▶ _____

12 Did you sign the joint return? See instructions. ☐ Yes ☐ No

Explain why or why not ▶ _____

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 III Tell us if and how you were involved with finances and preparing returns for those tax years *(Continued)*

13 **What was your involvement with preparing the returns?** Check all that apply and explain, if necessary. If the answers are **not** the same for all tax years, explain.

- ☐ You were not involved in preparing the returns.
- ☐ You filled out or helped fill out the returns.
- ☐ You gathered receipts and cancelled checks.
- ☐ You gave tax documents (such as Forms W-2, 1099, etc.) for the preparation of the returns.
- ☐ You reviewed the returns before they were filed.
- ☐ You did not review the returns before they were filed. Explain below why you did not review the returns.
- ☐ You did not know a joint return was filed.
- ☐ Other ▶

Explain how you were involved ▶

14 **When the returns were filed, what did you know about any incorrect or missing information?** Check all that apply and explain, if necessary. If the answers are **not** the same for all tax years, explain below.

- ☐ You knew something was incorrect or missing, but you said nothing. Explain below.
- ☐ You knew something was incorrect or missing and asked about it. Explain below.
- ☐ You did not know anything was incorrect or missing.
- ☐ Not applicable. There was no incorrect or missing information.

Explain ▶

15 **When any of the returns were filed, what did you know about the income of the person on line 5?** Check all that apply and explain, if necessary. If the answers are **not** the same for all tax years, explain.

- ☐ You knew that the person on line 5 had income.

  List each type of income on the lines provided below. (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."

- ☐ You knew that the person on line 5 was self-employed and you helped with the books and records.
- ☐ You knew that the person on line 5 was self-employed and you did not help with the books and records.
- ☐ You knew that the person on line 5 had no income.
- ☐ You did not know whether the person on line 5 had income.

Explain why you did not know whether the person on line 5 had income ▶

16 **When the returns were filed, did you know if the returns showed a balance due to the IRS for those tax years?** If the answers are **not** the same for all tax years, explain.

- ☐ Yes. Explain when and how you thought the amount of tax reported on the return would be paid ▶
- ☐ No. Explain why you did not know the return showed a balance due. ▶
- ☐ Not applicable. There was no balance due on the return.

17 **When any of the returns were filed, were you having financial problems** (for example, bankruptcy or bills you could not pay)? If the answers are **not** the same for all tax years, explain.

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

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 III Tell us if and how you were involved with finances and preparing returns for those tax years *(Continued)*

18 **For the years you want relief, how were you involved in the household finances?** Check all that apply. If the answers are **not** the same for all tax years, explain.

- ☐ You were not involved in handling money for the household. Explain below.
- ☐ You knew the person on line 5 had separate accounts.
- ☐ You had joint accounts with the person on line 5, but you had limited use of them or did not use them. Explain below.
- ☐ You used joint accounts with the person on line 5. You made deposits, paid bills, balanced the checkbook, or reviewed the monthly bank statements.
- ☐ You made decisions about how money was spent. For example, you paid bills or made decisions about household purchases.
- ☐ Other ▶

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

19 **Did you (or the person on line 5) incur any large expenses, such as trips, home improvements, or private schooling, or make any large purchases, such as automobiles, appliances, or jewelry, during any of the years you want relief or any later years?**

☐ Yes. Describe (a) the types and amounts of the expenses and purchases and (b) the years they were incurred or made.

☐ No.

20 **Has the person on line 5 ever transferred assets (money or property) to you?** (Property includes real estate, stocks, bonds, or other property that you own or possess now or possessed in the past.) See instructions.

☐ Yes. List the assets, the dates they were transferred, and their fair market values on the dates transferred. If the property was secured by any debt (such as a mortgage on real estate), explain who was responsible for making payments on the debt, how much was owed on the debt at the time of transfer and whether the debt has been satisfied. Explain why the assets were transferred to you. If you no longer possess or own the assets, explain what happened with the assets.

☐ No.

Part IV Tell us about your current financial situation

21 **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. Do not list any money or property you listed on line 20.

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

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 your current financial situation *(Continued)*

22 **How many people are currently in your household, including yourself?** Adults _____ Children _____

23 **Tell us your current average monthly income and expenses for your entire household.**

Monthly Income — If family or friends are helping to support you, include the amount of support as gifts below.	**Amount**
Gifts	
Wages (Gross pay)	
Pensions	
Unemployment	
Social security	
Government assistance, such as housing, food stamps, grants	
Alimony	
Child support	
Self-employment business income	
Rental income	
Interest and dividends	
Other income, such as disability payments, gambling winnings, etc. List each type below:	
Type _____	
Type _____	
Type _____	
Total Monthly Income	

Monthly Expenses — Enter all expenses, including expenses paid with income from gifts.	**Amount**
Food and Personal Care:	
Food	
Housekeeping supplies	
Clothing and clothing services	
Personal care products and services	
Transportation:	
Auto loan/lease payment, gas, insurance, licenses, parking, maintenance, 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-ordered child support, alimony and garnishments). List each type below:	
Type _____	
Type _____	
Type _____	
Miscellaneous	
Total Monthly Expenses	

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 Complete this part if you were (or are now) a victim of domestic violence or spousal abuse

As stated in line 8, providing this additional information is not mandatory but may strengthen your request. **Additionally, if you prefer to provide this information orally, check the "Yes" box on line 10.**

If you were (or are now) a victim of domestic violence or spousal abuse by the person on line 5, the IRS will consider the information you provide in this part to determine whether to grant innocent spouse relief. However, the IRS is required by law to notify the person on line 5 that you requested this relief. There are no exceptions to this rule. That person will have the opportunity to participate in the process by completing a questionnaire about the tax years you entered on line 3. This will be done before the IRS issues preliminary and final determination letters. However, the IRS is also required by law to keep all the personal identifying information (such as current names, addresses, and employment-related information) of both you and the person on line 5 confidential. This means that the IRS cannot disclose one person's information to the other person. If the IRS does not grant you relief and you choose to petition the Tax Court, your personal identifying information is available, unless you ask the Tax Court to withhold it.

The person on line 5 will receive a questionnaire about the tax years you entered on line 3. Except for your current name, address, phone numbers, and employer, this form and any attachments could be disclosed to the person on line 5. If you have any privacy concerns, see instructions.

The IRS understands and is sensitive to the effects of domestic violence and spousal abuse, and encourages victims of domestic violence to call 911 if they are in immediate danger. **If you have concerns about your safety,** please consider contacting the 24-Hour (Confidential) 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) before you file this form.

A representative from the IRS may call you to gather more information and discuss your request. Be sure you enter your correct contact information on line 4.

24a **During any of the tax years for which you are seeking relief or when any of the returns were filed for those years, did the person on line 5 do any of the following? Check all that apply. (Note. If this does not apply to you, skip lines 24a, b, and c, and complete lines 25 through 29.)**

- ☐ Physically harm or threaten you, your children, or other members of your family.
- ☐ Sexually abuse you, your children, or other members of your family.
- ☐ Make you afraid to disagree with him/her.
- ☐ Criticize or insult you or frequently put you down.
- ☐ Withhold money for food, clothing, or other basic needs.
- ☐ Make most or all the decisions for you, including financial decisions.
- ☐ Restrict or control who you could see or talk to or where you could go.
- ☐ Isolate you or keep you from contacting your family members and/or friends.
- ☐ Cause you to fear for your safety in any other way.
- ☐ Stalk you, your children, or other members of your family.
- ☐ Abuse alcohol or drugs.

b **Describe the abuse you experienced, including approximately when it began and how it may have affected you, your children, or other members of your family. Explain how this abuse affected your ability to question the reporting of items on your tax return or the payment of the tax due on your return.**

c **Attach photocopies of any documentation you have, such as:**

- Protection and/or restraining order.
- Police reports.
- Medical records.
- Doctor's report or letter.
- Injury photographs.
- A statement from someone who was aware of or witnessed the abuse or the results of the abuse (notarized if possible).
- Any other documentation you may have.

25 **Are you afraid of the person listed on line 5?**

☐ Yes ☐ No

26 **Does the person listed on line 5 pose a danger to you, your children, or other members of your family?**

☐ Yes ☐ No

27 **Were the police, sheriff, or other law enforcement ever called?**

☐ Yes ☐ No

28 **Was the person listed on line 5 charged or arrested for abusing you, your children, or other members of your family?**

☐ Yes. Provide details below.

☐ No

29 **Have you sought help from a local domestic violence program?**

☐ Yes. Provide details below.

☐ No

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 VI Additional Information

30 **Please provide any other information you want us to consider in determining whether it would be unfair to hold you liable for the tax.**

Part VII Tell us if you would like a refund

31 **By checking this box and signing this form, you are indicating that you would like a refund if you qualify for relief and if you already paid the tax. See instructions** . . . . . ☐

Caution

By signing this form, you understand that, by law, we must contact the person on line 5. See instructions for details.

Sign Here

Keep a copy for your records.

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.

Your signature	Date

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check ☐ if self-employed	PTIN

Firm's name ▶	Firm's EIN ▶
Firm's address ▶	Phone no.

Instructions for Form 8857

(Rev. January 2014)

Request for Innocent Spouse Relief

Department of the Treasury
Internal Revenue Service

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

General Instructions

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 5.

Future Developments

For the latest information about developments related to Form 8857 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/form8857*.

What's New

The Internal Revenue Service has issued Revenue Procedure 2013-34, available at *www.irs.gov/irb/2013-43_IRB/ar07.html*. This revenue procedure expands how the IRS will take into account abuse and financial control by the nonrequesting spouse in determining whether equitable relief is warranted. It also broadens the availability of refunds in cases involving deficiencies. See the instructions for *Line 31*, later.

Purpose of Form

When you file a joint income tax return, the law makes both you and your spouse responsible for the entire tax liability. This is called joint and several liability. Joint and several liability applies not only to the tax liability you show on the return but also to any additional tax liability the IRS determines to be due, even if the additional tax is due to the income, deductions, or credits of your spouse or former spouse. You remain jointly and severally liable for taxes, and the IRS can still collect them from you, even if you later divorce and the divorce decree states that your former spouse will be solely responsible for the tax.

If you believe, taking into account all the facts and circumstances, only your spouse or former spouse should be held responsible for all or part of the tax, you should request relief from the tax liability, including 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 you submit, to determine if you are eligible for relief. The IRS will contact you if additional information is needed.

Married people who did not file joint returns, but who lived in community property states may request relief from liability for tax attributable to an item of community income. Community property states are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin. See *Community Property Laws*, later.

Note. We recognize that some of the questions on the form involve sensitive subjects. However, we need this information to evaluate the circumstances of your case and properly determine whether you qualify for relief.

Situations in Which You Should Not File Form 8857

Do not file Form 8857 for any tax year to which the following situations apply, even if you checked "Yes" on line 1.

- In a final decision a court considered whether to grant you relief from the joint liability and decided not to do so.
- In a final decision a court did not consider whether to grant you relief from the joint liability, but you meaningfully participated in the proceeding and could have asked for relief.
- 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, Innocent Spouse Relief, for an exception that applies to TEFRA partnership proceedings.
- You answered "No" to question 1.

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 to increase your tax liability.
- The IRS sends you a notice.

However, you generally must file Form 8857 no later than 2 years after the first IRS attempt to collect the tax from you. (But see the **exceptions** below for different filing deadlines that apply.) For this reason, do not delay filing because you do not have all the required documentation.

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. The IRS usually sends a section 6330 notice by issuing a Letter 11 or Letter 1058.

Exception for equitable relief. The amount of time to request equitable relief depends on whether you are seeking relief from a balance due, seeking a credit or refund, or both:

- Balance Due – Generally, you must file your request within the time period the IRS has to collect the tax. Generally, the IRS has 10 years from the date the tax liability was assessed to collect the tax. In certain cases, the 10-year period is suspended. The amount of time the suspension is in effect will extend the time the IRS has to collect the tax. See Pub. 594, The IRS Collection Process, for details.
- Credit or Refund – Generally, you must file your request within 3 years after the date the original return was filed or within 2 years after the date the tax was paid, whichever is later. But you may have more time to file if you live in a federally declared disaster area or you are physically or mentally unable to manage your financial affairs. See Pub. 556, Examination of Returns, Appeal Rights, and Claims for Refund, for details.
- Both a Balance Due and a Credit or Refund – If you are seeking a refund of amounts you paid and relief from a balance due over and above what you have paid, the time period for credit or refund will apply to any payments you have made, and

the time period for collection of a balance due amount will apply to any unpaid liability.

Exception for relief from liability for tax attributable to an item of community income. If you are requesting relief from liability for tax attributable to an item of community income (other than equitable relief), a different filing deadline applies. See *Relief from liability for tax attributable to an item of community income*, discussed later under *Community Property Laws*. The time in which to request equitable relief from liability for tax attributable to an item of community income follows the rules for equitable relief, earlier.

Where To File

Do not file Form 8857 with your tax return or the Tax Court. Instead, mail it to one of the following addresses.

If using the U.S. Postal Service:

Internal Revenue Service
P.O. Box 120053
Covington, KY 41012

If using a private delivery service:

Internal Revenue Service
201 W. Rivercenter Blvd., Stop 840F
Covington, KY 41011

Alternatively, you can fax the form and attachments to the IRS at 855-233-8558.

For a list of private delivery services you can use to meet the "timely mailing as timely filing" rule for filing Form 8857 by the deadline, go to IRS.gov and enter "Private Delivery Services" in the search box.

Write your name and social security number on any attachments.

Send it to one of the above addresses or fax it to the above number even if you are communicating with an IRS employee because of an examination, examination appeal, or collection.

If you received an IRS notice of deficiency, you also should file a petition with the Tax Court before the end of the 90-day period, as explained in the notice. In your petition, you should raise innocent spouse relief as a defense to the deficiency. 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.

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 or domestic violence.

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 requested relief.

To protect your privacy, the IRS will not disclose your personal information (such as your current name, address, phone number(s), or information about your employer, your income, or your assets). Any other information you provide that the IRS uses to make a determination about your request for relief from liability could be disclosed to the person you list on line 5. If you have concerns about your privacy or the privacy of others, you should redact or black out personal information in the material you submit.

CAUTION *If you petition the Tax Court (explained later under* What Happens After You File Form 8857*), your spouse or former spouse may see your personal information, unless you ask the Tax Court to withhold it.*

Types of Relief

Four types of relief are available. They are:

1. Innocent spouse relief.
2. Separation of liability relief.
3. Equitable relief.
4. Relief from liability for tax attributable to an item of community income. (See *Community Property Laws*, later).

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 3.
- 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.

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.

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.

Separation of Liability Relief

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

- Are now divorced,
- Are now 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.

Equitable Relief

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

- You have an understated tax (defined earlier) or unpaid tax (defined next), and
- Taking into account all the facts and circumstances, the IRS determines it would be unfair to hold you liable for the understated or unpaid tax.

Equitable relief is the only type of relief available for an unpaid tax.

Unpaid tax. An unpaid tax is tax that is properly shown on your return but has not been paid.

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 unpaid 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 unpaid 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. 2013-34.

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 were a married resident of a community property state, but did not file a joint return and are now liable for an unpaid or understated tax, check "Yes" on line 1. You have the following two ways to get relief.

1. Relief from liability for tax attributable to an item of community income. You are not responsible for the tax related to an item of community income if **all** of 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.
- 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.

If you meet the above conditions, complete this form.

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 date of the IRS' initial contact letter to you. The period of limitations on assessment is the amount of time, generally 3 years, that the IRS has from the date you filed the return to assess taxes that you owe.

2. Equitable relief. If you do not qualify for the relief described in (1) above and are now liable for an unpaid or understated tax you believe should be paid only by your spouse or former spouse, you may request equitable relief. See *Equitable Relief*, earlier.

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. If either or both of you appeal to the IRS Office of Appeals, Appeals will issue a final determination letter to both of you after consideration of your appeal.

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 (other than a request for relief from liability for tax attributable to an item of community income) if:

- The IRS sends you a final determination letter regarding your request for relief, or
- You do not receive a final determination letter from the IRS within 6 months from the date you filed Form 8857.

The petition must be filed **no later than the 90th day after** the date the IRS mails you a final determination letter. 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.

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 relief 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 any tax for which you are determined to remain responsible. The 10-year period will be increased by the amount of time your request for relief was pending plus 60 days.

How To Get Help

See Pub. 971, Innocent Spouse Relief. To get Pub. 971 and other IRS forms and publications, go to 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 1-855-851-2009.



You can use the Innocent Spouse Tax Relief Eligibility Explorer by going to IRS.gov and entering "Innocent Spouse" in the search box.

The Taxpayer Advocate Service Is Here To Help You

The Taxpayer Advocate Service (TAS) is your voice at the IRS. Our job is to ensure that every taxpayer is treated fairly and that you know and understand your rights.

What can TAS do for you? We can offer you free help with IRS problems that you can't resolve on your own. We know this process can be confusing, but the worst thing you can do is nothing at all! TAS can help if you can't resolve your problems with the IRS and:

- Your problem is causing financial difficulties for you, your family, or your business.
- You face (or your business is facing) an immediate threat of adverse action.
- You have tried repeatedly to contact the IRS but no one has responded, or the IRS has not responded to you by the date promised.

If you qualify for our help, you'll be assigned to one advocate who'll be with you at every turn and will do everything possible to resolve your problem. Here's why we can help:

- TAS is an independent organization within the IRS.
- Our advocates know how to work with the IRS.
- Our services are free and tailored to meet your needs.
- We have offices in every state, the District of Columbia, and Puerto Rico.

How can you reach us? If you think TAS can help you, call your local advocate, whose number is in your local directory and at www.irs.gov/advocate, or call us toll-free at 1-877-777-4778.

How else does TAS help taxpayers?

TAS also handles large-scale, systemic problems that affect many taxpayers. If you know of one of these broad issues, please report it through the Systemic Advocacy Management System at www.irs.gov/sams.

For additional information about TAS, visit www.taxpayeradvocate.irs.gov or see Pub. 1546, The Taxpayer Advocate Service of the IRS – How to Get Help With Unresolved Tax Problems.

Low Income Taxpayer Clinics

Low Income Taxpayer Clinics (LITCs) serve individuals whose income is below a certain level and need to resolve tax problems such as audits, appeals and tax collection disputes. Some clinics can provide information about taxpayer rights and responsibilities in different languages for individuals who speak English as a second language. Visit www.irs.gov/litc or see IRS Publication 4134, Low Income Taxpayer Clinic List.

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.

Also write your name and social security number on the top of any other documents and statements you attach.

Line 1

Complete line 1 to determine if you should file Form 8857.

Whether you check "Yes" or "No," you should go to line 2 (discussed next) to find out if you should file another form (Form 8379) to request *injured spouse relief*. Injured spouse relief is different from innocent spouse relief and you cannot request it by filing Form 8857. You must file Form 8379. For example, if you check "Yes" on line 1 and "Yes" on line 2, you will have to file both Forms 8857 and 8379.

Line 2

Complete line 2 to determine if you should file Form 8379.

Check "Yes" for any tax year to which all of the following apply.

- You filed a joint return.
- At the time you filed the joint return, your spouse owed past-due federal tax, state income tax, state unemployment compensation debts, 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.

If all three of the above apply, 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 you checked "Yes" on line 1, and all three of the above do not apply, check "No" and go to line 3.

Example 1. You and your spouse filed your joint tax return showing a refund of $3,200. At the time you filed the return, your spouse owed $2,400 in back child support. The IRS used $2,400 of your refund to pay your spouse's back child support and refunded the remaining $800 to you and your spouse. You check "Yes" on line 2 because you meet all of the conditions listed above. If you want to get back your share of the $2,400 refund that the IRS used to pay your spouse's back child support, you must file Form 8379.

Example 2. The facts are the same as in Example 1, but the IRS audited your return and disallowed a $5,000 alimony deduction, which was actually child support paid by your spouse. Child support is not deductible. The disallowance resulted in additional tax, interest, and penalties. As explained earlier under *Innocent Spouse Relief*, this deduction is an erroneous item attributable to your spouse. You believe you meet the other requirements in that discussion for getting innocent spouse relief. You check "Yes" on line 1. In addition to Form 8379, you also should file Form 8857.

Line 4

Enter your current name, social security number, current mailing address (including county), and best or safest daytime phone number (between 6 a.m. and 5 p.m. Eastern Time) to call you if we need more information.

If your current name is different from your name as shown on your tax return for any year for which you are requesting relief, enter your former name in parentheses after your current name. For example, enter "Jane Maple (formerly Jane Oak)."

Foreign address. Enter the information in the following order: City, province, county, or state, and country. Follow the country's

practice for entering the postal code. **Do not** abbreviate the country name.

Change of address. The IRS will send the initial correspondence about Form 8857 to the address you enter on line 4. However, the IRS is required to send all other correspondence to the most recent address it has for you in its records. This is usually the address shown on your most recently filed tax return or amended return. If you want us to update our records to use the address you entered on line 4 for all correspondence, you will have to file Form 8822, Change of Address. Send Form 8822 to the address shown in the instructions for that form. Do **not** send it to either of the addresses shown in these Form 8857 instructions. Generally, it takes 4 to 6 weeks to process your change of address.

If the address on line 4 matches the address in our records, you do not need to file Form 8822 unless you move. If you move after you file Form 8857, please use Form 8822 to notify the IRS of your new address.

Line 5

Enter the current name and SSN (if known) of the person to whom you were married at the end of the year(s) listed on line 3.

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 4, earlier.

Line 8

If you wish to have the note removed from your account, call us at 1-855-851-2009 or write us at either of the addresses or the fax number listed earlier under *Where To File*. Please include your social security number on your written request.

Line 12

By law, if a person's name is signed to a return, it is presumed to be signed by that person, unless that person proves otherwise. If you believe your signature was forged or you signed under duress, explain in the space provided.

If you sign a joint return under duress or your signature was forged, the election to file jointly is not valid and you have no valid return. You are not jointly and severally liable for any income tax liabilities arising from that return. In that case, innocent spouse relief does not apply and is not necessary for obtaining relief. If you file Form 8857, but also maintain that there is no valid joint return due to duress or forgery, the IRS will first make a determination as to the validity of the joint return and may accordingly deny the request for innocent spouse relief based on the fact that no joint return was filed (and thus, relief is not necessary). If it is ultimately determined that a valid joint return was filed, the IRS will then consider whether you would be entitled to innocent spouse relief on the merits.

Forged signature. Your signature on the joint return is considered to be forged if it was not signed by you and you did not authorize (give tacit consent) the signing of your name to the return.

Tacit consent. Tacit consent means that, based on your actions at the time the joint return was filed, you agreed to the filing of the joint return even if you now claim the signature on the return is not yours. Whether you have tacitly consented to the filing of the joint return is based on an examination of all the facts of your case. Factors that may support a finding that you consented to the filing of the joint return include the following.
- You gave tax information (such as Forms W-2 and 1099) to your spouse.
- You did not object to the filing.
- There was an apparent advantage to you in filing a joint return.
- You filed joint returns with your spouse or former spouse in prior years.
- You failed to file a married filing separate return and you had a filing requirement.

Signed under duress. You are considered to have signed under duress (threat of harm or other form of coercion) if you were unable to resist demands to sign the return and you would not have signed the return except for the constraint applied by your spouse or former spouse. The duress must be directly connected with the signing of the joint return.

Line 20

You may not be entitled to relief if either of the following applies.
- Your spouse (or former spouse) transferred property (or the right to property) to you for the main purpose of avoiding tax or payment of tax. A transfer will be presumed to meet this condition if the transfer is made after the date that is 1 year before the date on which the IRS sent its first letter of proposed deficiency.
- The IRS proves that you and your spouse (or former spouse) transferred property to one another as part of a fraudulent scheme. A fraudulent scheme includes a scheme to defraud the IRS or another third party such as a creditor, former spouse, or business partner.

For more information about transfers of property, see Pub. 971.

Fair market value. Fair market value (FMV) is the price at which property would change hands between a willing buyer and a willing seller when both have reasonable knowledge of the relevant facts and neither has to buy or sell. FMV is not necessarily the cost of replacing the item.

Line 21

See the instructions for line 20 for the definition of fair market value.

Line 31

You must indicate that you want a refund of any payments you made in order for the IRS to consider whether you are entitled to it. Payments include refunds from another tax year applied to this tax liability. If you are granted relief, refunds are:
- Permitted under innocent spouse relief and equitable relief as explained below under *Limit on Amount of Refund.*
- Not permitted under separation of liability relief.

Proof Required

The IRS will only refund payments you made with your own money. However, you must provide proof that you made the payments 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.

Limit on Amount of Refund

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. However, you may be entitled to a refund of your portion of a joint overpayment from another year that was applied to the joint tax for a different year. You will need to show your portion of the joint overpayment.

The amount of your refund is limited. Read the chart at the top of the next page 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.

Sign Form 8857

If you do not sign Form 8857, the IRS cannot consider your request and 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

Generally, anyone you pay to prepare Form 8857 must sign it and include their Preparer Tax Identification Number (PTIN) 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 Revenue Code sections 66(c) and 6015 allow relief from liability. Requesting relief from liability is voluntary. If you request relief from 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, the District of Columbia, and U.S. commonwealths and possessions 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 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	1 hr., 9 min.
Preparing the form	2 hr., 36 min.
Copying, assembling, and sending the form to the IRS	1 hr., 3 min.

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 send your comments from *www.irs.gov/formspubs*. Click on "More Information" and then on "Give us feedback." Or you can send your comments to the Internal Revenue Service, Tax Forms and Publications, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. **Do not** send the form to this address. Instead, see *Where To File*, earlier.