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IRS Accused Of Unfeeling Treatment Of Abused Spouses

I've [previously written](#) about the unique meaning of “innocence” in tax lore, and when and how “innocent spouse” tax cases arise. Unfortunately, it happens a lot. For one thing, most married couples file [joint tax returns](#), and that’s where the trouble starts. If you file married filing separate, you don’t need to worry about innocence. See [Consider Tax Filing Status Carefully](#).

But with the vast majority of married couples filing jointly, some spouses are bound to run off, lie about their off-the-books income, wind up in trouble, or otherwise leave their spouse holding the bag. The IRS may come along expecting to be paid, since a joint filing means each is 100% liable.

A spouse who filed joint returns has little chance to avoid liability unless the spouse can timely—and more about timing below—convince the IRS he or she is innocent. That’s easier said than done. Quite apart from a timing issue the IRS and the courts have made red hot, the IRS is just plain tough on these claims.

Even spouses who’ve been abused may not convince the IRS. In [Stephenson v. Commissioner](#), the wife suffered physical and verbal abuse by her husband. She left him in 2007 and they divorced. She later learned of a 1999 joint tax liability that remained unpaid. Her ex-husband also had not filed their 2005 return. Mrs. Stephenson filed her

own return for 2005, and ask the IRS for innocent spouse relief for 1999 and 2004.

The IRS said yes for 2004 but not for 1999. Then the Tax Court ruled she qualified for 1999 too, noting that it would take into account the abuse she suffered. The IRS argued that her testimony she was abused was not credible because she had not documented it. To the Tax Court, it was enough that she testified about it and that a friend who had actually seen her bruised body corroborated it.

Needless to say, this hardly makes the IRS sound kind or gentle. National Taxpayer Advocate Nina Olson recently denounced the IRS for its handling of the case. See [Taxpayer Advocate Blasts IRS's Handling of Innocent Spouse Case](#).

As to timing, IRS [Regulations](#) say you must claim innocence within two years after the IRS first tries to collect a tax debt. That disputed rule—which is not in the tax statute itself—has been controversial. See [More Timing Disputes Over Innocent Spouse Relief](#).

The fisticuffs in court over the timing of innocent spouse claims continues. See [Beware IRS Pushback On Innocent Spouse Relief](#). If you can, avoid the dispute and file your IRS [Form 8857](#) Request for Innocent Spouse Relief promptly.

For more about innocent spouse relief, see:

[When An Innocent Spouse Seeks Tax Relief](#)

[IRS Publication 971, Innocent Spouse Relief](#)

[IRS Innocent Spouse Questions & Answers](#)

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