



General Information

What is innocent spouse relief?

Innocent spouse relief is a means of reducing an innocent spouse's income tax liability resulting from a joint return. Generally, when you file a joint return, both you and your spouse are responsible for any tax liability, penalties, and interest that may be due or become due for that tax year. This means that you may be held responsible for the tax due on your spouse's income or for taxes, penalties, and interest due as the result of your spouse's error.

However, if you are granted innocent spouse relief, you are not liable for the tax on your spouse's income that was reported on your joint return. Also, you are not liable for the tax, penalties, and interest that are due on income your spouse did not report or that results from deductions or credits that were overstated by your spouse, unless you knew of the erroneous reporting of those items.

What is the purpose of this form?

The purpose of Form IL-8857, Request for Innocent Spouse Relief, is to request a release from a joint tax liability that you believe is the sole responsibility of the person with whom you filed the return. The Allocation of Liability Worksheet will help you determine your separate liability and your share of any payments that have already been made.

You must complete a separate Form IL-8857 and an Allocation of Liability Worksheet for each year you are seeking innocent spouse relief. If you are granted innocent spouse relief, the worksheet will determine the amount of refund that you may be entitled to or the amount of your remaining liability.

Note: You must have filed a joint return for the year that you are requesting a release from tax liability in order to receive innocent spouse relief.

Is there anything special I should know?

Yes, you should know that Illinois legislature passed a new law on **August 13, 1999**, which states that an innocent spouse is responsible only for the amount of liability that would have been shown on that spouse's separate return for the same tax year. Therefore, if you filed or were assessed

- after August 13, 1999, or
- before August 13, 1999, but your liability from a previous filing was not paid as of August 13, 1999,

you will be responsible for the amount of tax liability claimed on a separate return for the same tax year that shows only your income and deductions. The Allocation of Liability Worksheet will help you determine this amount.

If you filed and paid before August 13, 1999, Illinois grants innocent spouse relief according to the federal guidelines. You will be released from any Illinois tax, penalties, interest, or other amounts in the same manner that you received a release from the federal government.

Under the old guidelines, if you did not have an innocent spouse issue for federal income tax purposes, you will be released of any Illinois tax, penalties, interest, or other amounts if

- you filed a joint return; and
- the difference between the total amount of tax that should have been shown and the amount of tax that was actually shown was

greater than \$500 and this difference resulted from an omission by the person you were married to at the time the return was filed; and

- you did not know of this difference at the time you signed this return.

Will collection activity stop?

Once we receive your completed Form IL-8857, collection activity against the person requesting innocent spouse relief will stop during our review for the tax year identified on this form. However, we may continue with investigation, adjustment, and collection of all joint tax liabilities other than the tax year identified on this form.

What must I attach to Form IL-8857?

You must attach

- a copy of your federal and Illinois Income Tax returns for the year,
- any amended federal or Illinois Income Tax returns, and
- any final determinations of federal or Illinois Income Tax liability that you have received from the Internal Revenue Service (IRS), the Illinois Department of Revenue, or the courts.

If you do not have a copy of any of the federal documents mentioned above, you must complete the IRS Form 4506, Request for Copy or Transcript of Tax Form, and send to the IRS. Once you receive these documents, attach to your Form IL-8857 and forward to us.

Where do I mail this form?

You should mail this form and any required attachments to:

ILLINOIS DEPARTMENT OF REVENUE
PROBLEMS RESOLUTION DIVISION
PO BOX 19014
SPRINGFIELD IL 62794-9014

What if I need assistance?

If you need assistance,

- visit our Web site at www.ILtax.com;
- call our Taxpayer Assistance Division at **1 800 732-8866** or **217 782-3336**;
- call our TDD (telecommunications device for the deaf) at **1 800 544-5304**; or
- write to us at the Illinois Department of Revenue, P.O. Box 19044, Springfield, Illinois 62794-9044

What if I need additional forms or schedules?

If you need additional forms or schedules,

- visit our Web site at www.ILtax.com;
- call our 24-hour Forms Order Line at **1 800 356-6302**;
- call our Illinois Tax Fax at **217 785-3400**; or
- write to us at the Illinois Department of Revenue, P.O. Box 19010, Springfield, Illinois 62794-9010.