

What Kind of Tax Cases Can Legal Aid Handle?

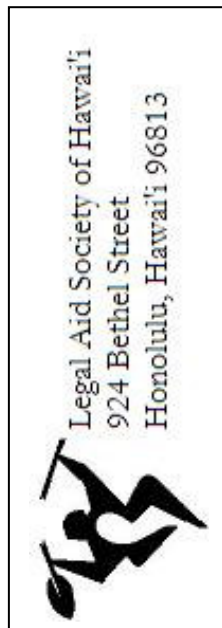
We may be able to assist you with your federal income tax matters, including:

- **Audits and Notices.** If you have been contacted by the IRS about a problem with your taxes, we may be able to assist you
- **Tax Debts.** If you owe money to the IRS and cannot afford to pay, we may be able to assist you in negotiating payment.
- **Non-filers.** If you have not filed, we may be able to assist you in filing your prior year tax return(s).
- **Other tax issues.** We also provide assistance for other federal tax issues.

Contact us for more information.

This is meant to be an informational brochure, and is not intended to take the place of legal counsel. The distribution of this brochure by the Legal Aid Society of Hawai'i does not imply that an attorney-client relationship has been formed. This brochure is not intended to be a complete statement of law nor intended to fully describe or evaluate your options.

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F:/Justice/Brochure/Consumer/Tax/C26.Federal Tax
Debt – Innocent Spouse Relief



Legal Aid Society of Hawai'i

Relief From Joint Liability For Taxes: Innocent Spouse Relief and Other Options

FOR FREE TAX ASSISTANCE,
CALL:

OAHU: 536-4302

MAUI: 242-0724

HILO: 934-0678

KONA: 329-8331

KAUAI: 245-7580

MOLOKAI: 553-3251

LANAI: 565-6089

<http://www.legalaidhawaii.org/>

Who is the Legal Aid Society of Hawai'i?

The Legal Aid Society of Hawaii (Legal Aid) is Hawaii's largest non-profit law firm. Legal Aid is a statewide organization with 9 offices on 6 of the Hawaiian Islands. We concentrate our efforts on assisting low-income individuals with their non-criminal legal matters.

Legal Aid can provide assistance with many types of legal problems.

This brochure provides information about Federal Tax Debts with your spouse or former spouse.

When you have a joint federal tax debt with your spouse or former spouse, there are several options for relief from the tax debt. This brochure will explain *Innocent Spouse Relief, Separation of Liability and Equitable Relief*.

What Types of Relief Are Available?

There are three basic types of relief available:

- (1) Innocent Spouse Relief,
- (2) Separation of Liability, and
- (3) Equitable Relief.

Each type of relief has different requirements. Even if you do not qualify for one type of relief, you may still be eligible for another type.

Innocent Spouse Relief

Innocent Spouse Relief may take away your responsibility for a tax debt (interest and penalties included) if the IRS finds that you were unaware that your spouse did not accurately report income or that your spouse made other errors on your joint return. You may qualify if you meet all of the following conditions:

- You and your spouse filed a joint tax return with a miscalculation of tax, AND
- The tax was miscalculated by your spouse, AND
- You can show that when you signed the tax return, you were unaware of errors made by your spouse

Separation of Liability

Separation of Liability allows you and your spouse to divide the tax debt, including penalties and interest. You will only be responsible for your portion of the tax debt.

In order to request this type of relief, you must have filed a joint return and meet ONE of the following requirements:

- You are no longer married to, are legally separated from, or widowed by the spouse who filed the joint return, OR
- At the time the joint return was filed, you and your former spouse had not been members of the same household for 12 months.

The IRS will not grant Separation of Liability if it finds that assets were transferred to you or

another party to avoid tax, or if you knew about the errors on the return.

Equitable Relief

Equitable Relief can relieve you of the responsibility for tax, interest and penalties. This type of relief may be available to you if you do not qualify for the other types. In order to qualify for this type of relief, you must meet ALL of the following requirements:

- You do not qualify for Innocent Spouse Relief or Separation of Liability, AND
- Taking all facts into consideration, it would be unfair to hold you responsible for the miscalculation of the tax.

The IRS will not grant Equitable Relief if it finds that assets were transferred to you or another party to avoid tax, or if there is other evidence of fraud.

How to Apply

To apply for any of these types of relief, complete IRS Form 8857, which can be obtained by calling the IRS at 1-800-829-3676. Attach an explanation of your circumstances as required. You must file this form no later than two years after the IRS' first attempt to collect tax from you. For more information, see IRS Publication 971 on Innocent Spouse Relief or consult an attorney.

State Taxes

The State of Hawaii allows similar relief, although the rules may not be exactly the same. To apply, call 587-7572 to request Form N-379 and instructions.