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Tax Court To IRS: “Stop Denying Innocent Spouse Relief!”

Innocent spouse relief is a hot topic in the tax world. With the vast majority of married couples filing tax returns jointly, some spouses are bound to run off, lie about off-the-books income, wind up in tax trouble, or otherwise leave their spouse holding the bag. A joint tax return means each spouse is 100% liable despite those appealing facts. In fact, the IRS is almost certain to come along expecting to be paid. See [Consider Tax Filing Status Carefully](#).

What can you do? Well, a spouse who filed joint returns has little chance to avoid liability **unless** he or she—and it is usually she—can **timely** convince the IRS 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. Most spouses have to go to court to get an “innocence” ruling, and even then it isn’t easy.

In fact, even spouses who’ve been abused may not convince the IRS. See [Stephenson v. Commissioner](#). The Tax Court came to the rescue, but the National Taxpayer Advocate Nina Olson [denounced](#) the IRS for its handling of the case. But much of the fighting these days is about timing.

Two-Year Rule. If you want to claim innocent spouse relief you must “generally” (see below) do so within two years after the IRS first begins trying to collect a tax debt. The U.S. Tax Court has repeatedly said claims for equitable relief—a subset of innocent spouse claims—are **not**

constrained by this two year rule. See [Lantz v. Commissioner](#). But the Seventh Circuit reversed and [ruled](#) for the IRS.

Then the Tax Court did it again in [Mannella v. Commissioner](#), holding there was no two year bar and ruling a spouse innocent. But the Third Circuit [reversed](#). See [Beware IRS Pushback on Innocent Spouse Relief](#).

The IRS has gone on [record](#) instructing its attorneys to keep fighting this issue. And the Tax Court is sticking tough too, most of the Tax Court judges together casting aside the two year limit in [Hall v. Commissioner](#). Most recently, in [Pullins](#), the Tax Court once again ruled a spouse innocent despite the fact that she missed the IRS two year deadline.

In considering who is innocent, the IRS and the courts look at a number of factors (assuming they can get past the timing issue), including:

- Marital status;
- Economic hardship;
- Knowledge about nonpayment;
- Subsequent compliance with income tax laws;
- Significant economic benefit;
- Abuse of requesting spouse;
- Poor health; and
- Non-requesting spouse's legal obligation to pay the outstanding liability.

Of course, if you want to be ruled innocent, you're better off avoiding the timing fuss and complying with the two-year deadline if you can.

For more, see:

[IRS Accused Of Unfeeling Treatment Of Abused Spouses](#)

[Taxing Innocent Spouses: 10 Things You Should Know](#)

[More Timing Disputes Over Innocent Spouse Relief](#)

[IRS Tougher On “Innocent” Spouse Relief](#)

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

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

[IRS Innocent Spouse Questions & Answers](#)

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