

Sample article for organizations to use to reach customers (687 word count)

Customize and post the following article on your websites and/or use in other communication vehicles, to assist your customers in satisfying their tax filing liabilities.

Self-Help Series

This is the first in a series of self-help articles to assist you with meeting and satisfying your tax liabilities. Rather than allowing tax issues to burden you, take your life into your own hands and consider alternatives to helping yourself. This month's article explains the difference between *Innocent Spouse Relief* and *Injured Spouse Relief*.

Are you an Innocent or Injured Spouse?

Innocent Spouse

When you file a joint income tax return, the law makes both you and your spouse responsible for the entire tax liability. This 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 income, deductions or credits of your spouse or former spouse.

In some cases, a spouse (or former spouse) will be relieved of the tax, interest and penalties on a joint return. You must meet all of the following conditions to qualify for **Innocent Spouse Relief**.

- You filed a joint return.
- There is an understated tax on the return that is due to erroneous items of your spouse (or former spouse).
- You can show that when you signed the joint return you did not know, and had no reason to know, that the understated tax existed.
- Taking into account all the facts and circumstances, it would be unfair to hold you liable for the understatement of tax.

By requesting Innocent Spouse Relief, you can be relieved of responsibility for paying tax, interest and penalties if your spouse (or former spouse) improperly reported items or omitted items on your tax return. Generally, the tax, interest and penalties that qualify for relief can only be collected from your spouse (or former spouse).

However, you are jointly and individually responsible for any tax, interest and penalties that do not qualify for relief. The IRS can collect these amounts from either you or your spouse.

The IRS recently announced that it will extend help to more innocent spouses by eliminating the two-year time limit that now applies to certain relief requests. For more information about this change, go to IRS.gov. <http://www.irs.gov/individuals/article/0,,id=242635,00.html>

Injured Spouse

You may be an **Injured Spouse** if you file a joint tax return and all or part of your portion of the overpayment was, or is expected to be, applied (offset) to your spouse's legally enforceable past-due federal tax, state income tax, child or spousal support, or a federal nontax debt, such as a student loan.

Who is Eligible to File an Injured Spouse allocation?

The injured spouse, or *non-debtor* spouse, may file a request to receive his/her share of the joint tax refund overpayment that was, or is expected to be, offset if the injured spouse:

- is not required to pay the past-due amount (i.e. federal tax, state tax, child or spousal support, student loan);

- has earned income (i.e. wages, salaries, or self-employment income, unemployment compensation, taxable interest) that was reported on Form 1040, U.S. Individual Income Tax Return;
- reported payments such as federal income tax withholding from wages or estimated tax payments, or claimed Earned Income Tax Credit or other refundable credits, on Form 1040. (Note: See Publication 555, Community Property.).

What to do if you believe you qualify as an Innocent or Injured Spouse

Innocent Spouse

If you believe you would qualify as an Innocent Spouse, you should complete [Form 8857, Request for Innocent Spouse Relief](#). 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; or
- the IRS sends you a notice.

Another self-help tool to assist you in determining if you qualify as an Innocent Spouse is the [Innocent Spouse Tax Relief Eligibility Explorer](#)

Injured Spouse

If you believe you would qualify as an Injured Spouse, you should complete [Form 8379, Injured Spouse Allocation](#).

NOTE TO EDITOR: *Below are links to www.irs.gov for related topics on Innocent and Injured Spouse.*

- [Publication 504 Divorced or Separated Individuals](#)
- [Publication 555 Community Property](#)
- [Publication 556 Examination of Returns, Appeal Rights, and Claims for Refund](#)
- [Publication 971 Innocent Spouse Relief](#)