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Assisting Clients Who Have Experienced Domestic Violence and Abuse



5/29/2012



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Types and Frequency

Physical Violence

Economic and Emotional Abuse

1 in every 4 women

450,000 Elderly





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Recent Innocent Spouse Cases Involving Abuse

Stephenson v. Comm'r, T.C. Memo.
2011-16

Thomassen v. Comm'r, T.C. Memo.
2011-88





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Joint Returns and Duress

IRC § 6013(a)

IRC § 6013(d)(3)

Treas. Reg. § 1.6013-4(d)





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What Constitutes Duress?

Brown v. Comm'r, 51 T.C. 116 (1968)

- (1) taxpayer unable to resist and
- (2) taxpayer would not have signed otherwise

Stanley v. Comm'r 81 T.C. 634 (1983)





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Innocent Spouse Relief

– IRC §§ 6015 and 66(c)

– Requested on Form 8857





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Notice 2012-8 (2012-4 I.R.B. 309)

New guidance on evaluating § 6015(f)
claims

Includes changes on how the IRS will
evaluate claims of abuse





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Per Notice 2012-8, Abuse includes:

“[P]hysical, psychological, sexual, or emotional abuse, including efforts to control, isolate, humiliate and intimidate the requesting spouse, or to undermine the requesting spouse's ability to reason independently and be able to do what is required under the tax laws.”





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Abuse in Innocent Spouse Cases

Mitigates the knowledge factor

May overcome attribution

May mitigate finding of lavish lifestyle





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Injured Spouse Claims

Joint tax return shows overpayment

Overpayment applied to a past-due debt of the other spouse

- Federal taxes
- State income taxes
- Child or spousal support
- Federal nontax debt such as student loan

Form 8379





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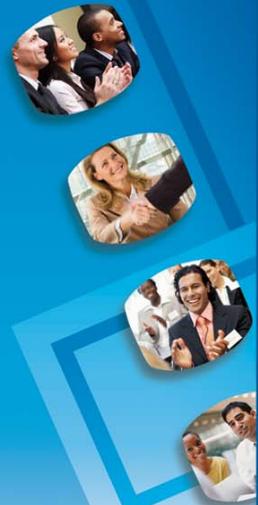
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“Stealing” tax benefits

Abuser claims victim’s dependents

- Dependency exemption
- Child tax credit
- EITC

935,772 dependents claimed by more than one taxpayer for 2010





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ID Theft

- Abusive taxpayer files “joint” return
- Joint and several liability
 - Possible fraudulent items
 - Victim’s later separate return not accepted for processing





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Assisting Abused Spouses - TAS Tips

E-file single or head of household

Change abused spouse's SSN

Police report of stolen identity

IRS ID Theft Line

Informant report with the IRS





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How TAS Can Help

Determine whether timeframes are being met

Ask IRS to reconsider a denial of relief or to review at a higher level





Contact TAS

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Visit www.IRS.gov/advocate

Visit TAS's Tax Toolkit at
www.taxpayeradvocate.irs.gov

Call 1.877.777.4778

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