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IRS Reviews Innocent Spouse Relief Time Bar

As most married couples file their tax returns jointly, there are bound to be a number of those who run off once they get into tax trouble and leave their spouses with the burden of tax liability. Once joint tax returns are made, both spouses are jointly and severably liable for 100% of the taxes. In cases where one spouse runs off, the innocent spouse must prove to the IRS that he or she (usually it's 'she') is innocent and must do so within a specific time frame. Then only can he or she claim for innocent spouse relief.

There are certain conditions the IRS considers in deciding if you can be classified as an innocent spouse. These conditions must be present within 2 years from the time the IRS begins collecting the tax debt:

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

There have been several cases where the innocent spouses have brought their cases to the tax court for leniency with regards to the timing rule of 2 years. Many of these cases involve thieving spouses and even spousal abuse. And generally the tax court has acceded to such petitions. But the

IRS would appeal the cases in the appellate court and usually wins the case.

Some Senators have written to the IRS on this matter. Democrat Senators Max Baucus (MT), Sherrod Brown (OH) and Tom Harkin (IA) wrote a letter recently that called for a more realistic deadline for innocent spouse relief.

Likewise, many members of the House have also thrown their support behind a call to abolish the 2 year time bar altogether.

In actual fact, the tax code itself does not set the 2 year time limit for equitable relief. Bearing in mind the IRS statute of limitations gives the agency 10 years to collect your taxes, the innocent spouse relief should also be accorded the same time frame to be given. Restricting innocent spouse claims to the first 2 years out of the 10 years seems contrary to the purpose of the innocent spouse statute.

In response to the letter and support for a review of the time bar, the IRS has finally relented. In a letter to lawmakers dated April 29, IRS Commissioner Doug Shulman promised to review the 2 year requirement as part of its 'Fresh Start' program for taxpayers who cannot afford to pay their taxes.