

New York Divorce and Family Law Blog

IRS Expands Innocent Spouse Relief Protections

By Daniel Clement on August 10, 2011

Generally when a married couple files a joint return, both parties are liable for any unpaid liabilities for any unreported or under reported income. An “innocent spouse,” a taxpayer who did not know and did not have reason to know that his or her spouse understated or underpaid an income tax liability, can under certain circumstances, escape responsibility for these tax obligations.

Effective immediately, the IRS will no longer enforce a rule that required taxpayers to file for innocent spouse status within two years after receipt of an IRS collection notice. The deadline prevented taxpayers, who were in the dark about their spouse’s tax debts, from seeking relief.

There are three types of innocent spouse relief: the innocent spouse provision, separation of liability and equitable relief. The removal of the two-year limit only affects requests under the equitable relief provision.

Under the innocent spouse provision, a tax-payer must establish that at the time the joint tax return was signed, he/she did not know, and had no reason to know, that there was an understatement of tax. The separation of liability allows the “innocent spouse” to pay only the taxes for which he/she is responsible. The equitable relief provision is a “catchall” of other relevant factors and is oft used by taxpayers who were victims of

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domestic abuse. As reported in the [Washington Post](#),

“In practice, many individuals who otherwise qualified for equitable innocent spouse relief had no idea the IRS had initiated collection activity because the other spouse had concealed that information. . . As a consequence, it was impossible for these individuals to bring a claim for relief before the two-year deadline to obtain consideration of the merits of their claims.”

The change in the law is intended to protect innocent spouse’s like Cathy Marie Lantz. According to the [Wall Street Journal](#):

“Last summer, a federal appeals court upheld an IRS argument for the two-year deadline in the case of Cathy Marie Lantz, the former wife of an Indiana dentist. In 2000, her husband, Dr. Richard Chentnik, was arrested and convicted of Medicaid fraud, resulting in a \$900,000 bill from the IRS. Ms. Lantz didn't file for innocent spouse relief because Dr. Chentnik told her he had taken care of it, and he died shortly afterward”