



# Innocent Spouse Relief *from Sales & Use Tax*

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 State Board of Equalization  
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## **Is sales and use tax relief available for people who are divorced or separated?**

In general, when you obtain a seller's permit with your spouse, both of you are liable for the sales and use tax owed by your business. However, California law recognizes that in some cases, it may not be reasonable or fair to require a divorced or separated person to pay this tax.

The law provides for tax relief that may eliminate all or part of your sales and use tax debt, including certain liens on your property. The primary form of tax relief available is known as *innocent spouse relief*. If you do not qualify for innocent spouse relief, you may be eligible for *equitable relief*.

## **What are the basic eligibility requirements for tax relief?**

To be eligible for innocent spouse relief or equitable relief, you must meet both of the requirements below. You must

- Owe tax on a seller's permit issued to you and your spouse.
- Be divorced from, legally separated from, or no longer living with your spouse.

In addition, you must be able to file a claim within the legal time limits. You must submit a written request for relief by whichever of these dates occurs *last*:

- One year from the date we first contacted you about the tax you owe.
- Five years from the due date of the return filed without payment of tax.
- Five years from the date our tax billing becomes final.

If you do not meet the basic requirements or you cannot file a claim within the legal time limits, you do not qualify for the tax relief explained in this brochure. See page 4 for other tax payment options.

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## How do I request tax relief?

### File a written request

You must apply in writing. You can use the simple form on page 7 or send us a signed and dated letter asking for *innocent spouse tax relief* from sales or use tax. If you send a letter, be sure to include all of the information requested on the form.

Please copy your request for your files, then mail the original, signed copy to our Offers in Compromise (OIC) Section (see page 6).

### File by the deadline

Be sure to file within the time limits noted on the previous page. We cannot approve late requests.



## How do you evaluate my request?

Our Offers in Compromise Section will evaluate your request. Staff will send you an acknowledgment letter and may ask you for more information. Be sure to provide all requested information by the deadline listed. If you do not, we must reject your request.

The OIC Section will check to see whether you meet the basic requirements and whether you filed on time. Staff will also determine whether you meet these three qualifications for innocent spouse relief:

- You owe sales or use tax because of your spouse's actions.
- You were not aware that you owed the tax when it became due and you had no reason to know it was due.
- You did not significantly benefit, directly or indirectly, because the tax was not paid.

The OIC Section must inform your spouse of your request for tax relief. Your spouse may provide documentation to counter your statements and request.

Your request will be reviewed as quickly as possible, but the review process often takes several months. Complicated cases may take longer. We may approve or deny all or part of your request.

If you have any questions about the confidentiality of information you provide in your request, please contact OIC Section staff at 916-322-7931.

## *W*hat happens if you approve my request?

If we approve your request, we will send you a letter explaining the tax relief granted to you. The letter will also explain how the relief affects any liens on real property you own (see below). As noted before, we may grant all or part of your request.

### Tax liens on real property

Since California is a community property state, innocent spouse relief may not completely remove a tax lien on your home or other real property. If you own property encumbered by a tax lien, you may wish to discuss your options with an attorney or tax advisor.

## *W*hat happens if you deny my request?

If we deny your request for innocent spouse relief, we will send you a letter explaining why. You may still be eligible for equitable relief. If we can see that you meet the eligibility requirements described on page 1, we will send you a questionnaire and financial statement form with your denial letter.

If you return the questionnaire and financial statement, we will determine whether you qualify for equitable relief.

## *H*ow do you decide whether I qualify for equitable relief?

The OIC Section will review the information you provide and your Individual Financial Statement. Staff will weigh a variety of factors to determine whether you are eligible for equitable relief—for example:

- Your economic situation.
- How much you knew about the tax due or the business's tax situation.
- Whether you received significant benefit because the tax was not paid.
- Who caused the tax liability.
- Whether a divorce decree assigns responsibility for the tax to you or your spouse.
- Duress or abuse from your spouse.
- Whether you tried to comply with the law in paying the tax due.

When we have determined whether you are eligible for equitable relief, we will send you an approval or denial letter.



## **C**an I appeal if you find that I'm not eligible for equitable relief?

Yes. Follow the instructions in your denial letter or call our OIC Section for more information: 916-322-7931.

## **O**ther tax issues related to tax relief for divorced or separated spouses

### Collection action

Generally, we will not start new collection action while your request is pending unless the delay will threaten our ability to collect the tax. If you are making payments under an installment payment agreement or earnings-withhold order, you must continue these payments while we review your request.

### Other options for resolving sales and use tax disputes

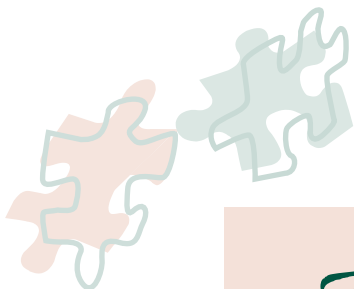
You may file an appeal or a claim for refund, regardless of whether you submit a request for innocent spouse tax relief. You may also propose a settlement of your tax liability. If your business has been closed, you may make an offer-in-compromise to pay us less than what you owe. For more information on these options, see our website or call our Information Center.

If you have a dispute with our agency that you have not been able to resolve through normal channels, our Taxpayers' Rights Advocate may be able to help:

Taxpayers' Rights Advocate, MIC:70  
Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0070

Phone: 916-324-2798  
Toll-free: 888-324-2798  
Fax: 916-323-3319





## *F*or More Information

*Internet:* [www.boe.ca.gov](http://www.boe.ca.gov)

*Information Center:* 800-400-7115

Representatives can assist you weekdays  
(except State holidays) from 8-5 Pacific time.

*TDD service for the hearing impaired:*

TDD phones      800      735-2929

Voice phones    800      735-2922

## *A*dditional Resources

Innocent spouse relief and equitable relief are described in:

- Revenue and Taxation Code section 6456 (available on the Internet at [www.leginfo.ca.gov/calaw.html](http://www.leginfo.ca.gov/calaw.html)).
- Regulation 1705.1, *Innocent Spouse Relief from Liability* (available from our website or Information Center).





## **C**ompleting your request form

### **Complete the entire form**

Provide all of the information requested, including the information for your former or separated spouse. Dates are important because they show the sequence of events and help us determine whether you are eligible for tax relief. If you do not know a date, enter *unknown*. If an item does not apply to you, enter *n/a*. For example, if you are separated but not divorced, you would enter *n/a* for “Date you divorced your spouse.”

### **Explain your situation fully**

Please be as specific as possible in explaining why you believe you should not be held responsible for the tax liability (see “How is my request evaluated?” on page 2). It is best to state facts you can support with documents. Be sure to provide any information that can show that you were not involved in the business during the liability period, did not know or have reason to know of the liability, and did not significantly benefit directly or indirectly because the tax was not paid.

For example, you might say: *I was divorced during the period of the tax liability. I had relocated and was supporting myself. I had no direct or indirect income from the business.*

Be sure to explain your situation as fully as you can. Use additional paper, if necessary.

### **Provide supporting documents**

Along with your request, please send photocopies of any documents that will back up your explanation. For the example above, you might provide a copy of the divorce decree filed with the court, a rental agreement showing your separate residence, and copies of pay stubs or income tax documents to show you were supporting yourself.

Other important documents include items such as your legal separation order, property settlement agreements, income tax returns, business checking account statements, business property lease agreements, city business license or liquor license, and police reports, hospital reports, or restraining orders.

Please read the required Privacy Notice (BOE-324-OIC).

### **Mail us your signed, dated, and completed request**

Make a copy of your request for your files. Then mail the original request and photocopies of supporting documents to:

Offer in Compromise Section, MIC:52  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0052

**REQUEST FOR INNOCENT SPOUSE RELIEF**

*(Instructions on opposite page.)*

**APPLICANT**

NAME OF PERSON MAKING REQUEST		MAILING ADDRESS	
CITY		STATE	ZIP CODE
DAYTIME TELEPHONE NUMBER (      )		ALTERNATE TELEPHONE NUMBER (      )	
SELLER'S PERMIT NUMBER		BUSINESS NAME	
DATE BUSINESS STARTED		DATE BUSINESS CLOSED	
DATE YOU LEFT THE BUSINESS	DATE YOU SEPARATED FROM YOUR SPOUSE	DATE YOU DIVORCED YOUR SPOUSE	
DATE THE BOARD OF EQUALIZATION FIRST CONTACTED YOU REGARDING PAYMENT OF YOUR SALES OR USE TAX LIABILITY			

**APPLICANT'S FORMER OR SEPARATED SPOUSE**

NAME		MAILING ADDRESS	
TELEPHONE NUMBER (      )	CITY	STATE	ZIP CODE

**EXPLANATION**

Please explain in the space below why you think you are an innocent spouse. Be as specific as possible. Be sure to discuss the extent of your involvement in the business, the details of your separation and division of assets, and any other factors that show you did not know about the tax liability, receive benefit from the business, or have any involvement in the business during the time the tax became due. If you need more room, use the back of this form or additional sheets. Attach photocopies of documents that support your explanation. **Please read the required Privacy Notice (BOE-324-OIC).**

SIGNATURE OF APPLICANT	DATE SIGNED
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Please remove along perforation.

Use this side if you need more space to explain why you think you are an innocent spouse. Use additional paper if necessary to fully explain your situation.