



# **T**nnocent Spouse Relief *for individuals that were married or registered domestic partners*

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State Board of Equalization  
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## **T**s tax or fee relief available for people who have legally ended or separated from their marriage or registered domestic partnership or no longer live with their spouse or partner?

In general, when you have an existing account with the Board of Equalization (BOE) as a husband and wife co-ownership, or a registered domestic partnership, both parties are responsible for liabilities owed to the BOE. 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 liability.

All tax and fee account holders registered with the BOE as part of a husband and wife co-ownership or a registered domestic partnership account, may request relief as an innocent spouse if the basic requirements are met.

If you can show that you were not involved in the business during the liability period, did not know of the tax or fee liability, and did not significantly benefit because the tax or fee was not paid, relief under the innocent spouse provisions of the law may be granted for the period(s) of outstanding liability.

The law provides for tax or fee relief that may eliminate all or part of your liability. In addition, certain liens on your property may be released. The form of relief available is known as *innocent spouse relief*. If you do not qualify for innocent spouse relief you may be eligible for *equitable relief*.

## **W**hat are the basic eligibility requirements for innocent spouse relief?

To be eligible for innocent spouse relief, you must meet the following requirements. You must:

- Owe a tax or fee to the BOE, both parties are jointly and individually liable for the amount due when the account is registered as a co-ownership or partnership; and
- Be divorced from, legally separated from, have legally ended your domestic partnership, or no longer living with your spouse (future references to “spouse” shall also refer to a “registered domestic partner”).

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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 the dates occurs last:

- No later than one year from the date of initial contact by the BOE with the person making the claim regarding the outstanding liability;
- Five years from the due date of the return filed without full payment of the tax or fee; or
- Five years from when the determination issued by the BOE 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 innocent spouse relief. You may nevertheless qualify for equitable relief (see page 3).

## *H*ow do I request relief?

To request innocent spouse relief you must apply in writing. You may use BOE-682-A, *Request for Innocent Spouse Relief*, on page 7 or send us a signed and dated letter asking for innocent spouse relief from liability. If you send a letter, be sure to include all of the same information that is requested on BOE-682-A.

Retain a copy of your request for your records, then mail the signed original to our Offer in Compromise (OIC) Section (see [page 6](#)).

Be sure to file within the time limits noted above. We cannot consider late requests.

## *H*ow do you evaluate my request?

The OIC Section will evaluate your request. We will send you an acknowledgement letter upon receipt of your request. You may be asked to provide additional information. If so, respond with all requested information by the deadline listed. If you do not respond, the request will be rejected.

The OIC Section will check to see whether you meet the basic requirements and whether your request was submitted within the legal time limits. Staff will also determine whether you meet these three qualifications for innocent spouse relief:

- You owe the tax or fee because of your spouse's actions.
- You were not aware that you owed the tax or fee 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 or fee was not paid.

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

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

It is the BOE's policy to only obtain information through lawful means. The BOE's collection, use, retention, disclosure, and destruction of such information is in compliance with state privacy laws.

If you have any questions about the confidentiality of information you provide in your request, please contact the OIC Section staff at 916-322-7931. Also, you may refer to [BOE-324-OIC, Privacy Notice Information](#).

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

If we approve your request, we will send you a letter explaining the relief granted to you. The letter will also explain how the relief affects any liens on real property you own.

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.

If you receive relief as an innocent spouse, you may be entitled to a full refund of monies collected voluntarily or involuntarily if the request for refund is submitted within the legal time limits. (See [publication 117, Filing a Claim for Refund](#).)

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

If we deny your request for innocent spouse relief, we will next consider whether you are eligible for relief under equitable relief. The information you provide us will assist us in determining your eligibility for equitable relief. You will receive a questionnaire and financial statement form from us asking for this additional information. Your timely response will assist us in our review of your eligibility for equitable relief.

If we deny your request for both innocent spouse relief and equitable relief, we will send you a letter explaining the reason(s) for the denial.

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

The OIC Section will review all of the facts and circumstances in your case to determine whether it is inequitable to hold you liable for the liability. The following factors may be considered in our determination to grant relief, but we may consider other factors as well:

- Are you separated or divorced from the spouse with whom you incurred the liability?
- Would you suffer an economic hardship if relief is not granted?
- How much knowledge did you have regarding the understatement or nonpayment of the liability?
- Did you receive a significant benefit because the liability was not paid?

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- Was the liability attributable to you or your spouse?
  - Do you have the legal obligation under a divorce decree or an agreement to pay the liability; or does your spouse?
  - Did duress or abuse from your spouse contribute to the understatement or nonpayment of the liability?
  - Did you make a good faith effort to comply with the BOE's laws during the liability period or subsequent periods?

When we have determined whether you are eligible for equitable relief, we will send you notification of our decision.

If your request for equitable relief is approved you will be relieved of the existing unpaid liability. You may be eligible for a refund of payments made toward the relieved periods of liability.

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

Yes. You will have 30 days from the date of the equitable relief denial letter to submit a written request for an appeal. For more information, contact our OIC Section at 1-916-322-7931, or see [publication 17, Appeals Procedures: Sales and Use Tax and Special Taxes](#).

## **W**hat are other concerns for individuals who are requesting relief?

### Collection action

Generally, we will not initiate any new collection actions while your request for relief is pending unless the delay will inhibit our ability to collect the tax or fee. If you are making payments under an installment agreement or earnings-withhold order you must continue these payments while we review your request.

### Other options for resolving tax or fee disputes

You may file an appeal or a claim for refund, regardless of whether you submit a request for innocent spouse tax or fee relief. You may also propose a settlement of your liability. You may also submit an offer in compromise to request to pay less than what is legally due. For more information on these options, please visit our website at [www.boe.ca.gov](http://www.boe.ca.gov) or contact our Customer Service Center at 1-800-400-7115.

If you have not been able to resolve a problem through normal channels (for example, by speaking to a supervisor) we encourage you to contact the [Taxpayers' Rights Advocate](#) for help:

Taxpayers' Rights Advocate Office, MIC:70

State Board of Equalization

PO Box 942879, Sacramento, CA 94279-0070

Phone: 1-916-324-2798 • Toll-free: 1-888-324-2798 • Fax: 1-916-323-3319

## **F**or More Information



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

Customer Service Center: 1-800-400-7115

TTY:711

Customer Service Representatives are available to assist you weekdays from 8:00 a.m. to 5:00 p.m., (Pacific time), except state holidays.

## **A**dditional Resources

The following law sections discuss innocent spouse relief and equitable relief:

- Revenue and Taxation Codes 6456, 7657.5, 8880, 30285, 32258, 38454.5, 40105, 41099, 43159.1, 43159.2, 45158, 46159, 50112.6, 55045.1, 60210.5, and 11408.5 (can be viewed on the internet at [www.leginfo.ca.gov/calaw.html](http://www.leginfo.ca.gov/calaw.html))
- [Regulation 1705.1](#), *Innocent Spouse or Registered Domestic Partner Relief from Liability* (can be viewed on our website)



## **C**ompleting your request form

### Complete the entire form

Provide all of the information requested, including the information regarding your former or separated spouse. Dates are important because they show the sequence of events and help us determine whether you are eligible for relief. If you do not know the specific date(s), enter *unknown*. If an item does not apply to you enter *N/A*. For example, if you are separated but have not legally ended your marriage or domestic partnership, you should enter *N/A* for, “Date you divorced your spouse.”

### Explain your situation fully

Please be as specific as possible when explaining why you believe you should not be held personally responsible for the liability (see “How do you evaluate my request?” on [page 2](#)). It is best to state facts you are able to support with documents. Be sure to provide any information that can prove 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 or fee was not paid.

Be sure to thoroughly explain your situation in as much detail as possible. Use additional paper, if necessary.

### Provide supporting documentation

Along with your request, please send photocopies of any documents that will support your explanation. These documents will not be returned, so please do not send original documents. Examples of supporting documents include copies of divorce proceeding filed with a court, a separation or divorce decree issued by a court, a rental agreement during the period of liability showing your separate residence, and copies of pay stubs and income tax documents showing you were supporting yourself.

Other important documents may include your property settlement agreements, business checking account statements, business property lease agreements, city business license or liquor license, police reports, restraining orders, or medical reports.

Please read the required Privacy Notice, [BOE-324-OIC, Privacy Notice Information](#).

Mail us your signed, dated, and completed request

Retain a copy of your request for your records. Mail the original request with photocopies of your supporting documentation to:

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

**REQUEST FOR INNOCENT SPOUSE RELIEF**

*(Instructions on preceding page)*

**APPLICANT**

NAME OF PERSON MAKING REQUEST		MAILING ADDRESS	
CITY		STATE	ZIP CODE
DAYTIME TELEPHONE NUMBER (    )		ALTERNATE TELEPHONE NUMBER (    )	
TAX/FEE ACCOUNT 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 OF FIRST CONTACT BY BOARD OF EQUALIZATION REGARDING YOUR TAX/FEE LIABILITY			

**APPLICANT'S FORMER OR SEPARATED SPOUSE OR REGISTERED DOMESTIC PARTNER**

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/fee liability, receive benefit from the business, or have any involvement in the business during the time the tax/fee became due. If you need more space, use the back of this form or additional paper. Attach photocopies of documents that support your explanation.

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.