

# INCOME TAXES- THE COMPLEXITIES AND HOW THEY IMPACT DIVORCE

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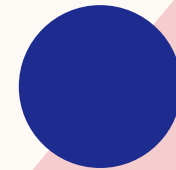
Form Overview- Individual and Business Returns

Tax Assets in Divorce

Divorcing or Divorced Taxpayer Specific Income Tax Items

Tax Return as a tool in Family Law

Summary



# THE FUNDAMENTALS OF TAX FORMS<sup>3</sup>

1. Form 1040 Individual Income Tax Return/ 540
  - a) 1040 and Schedules
  - b) Schedule A
  - c) Schedule B
  - d) Schedule E page 1 & pg. 2
  - e) Schedule CA 540
  - f) Carryover report
2. Form 1065 Partnership Income Tax Return
  - a) Form 1065 Page 1, 4 & 5
  - b) Form 8825
  - c) Schedule K-1
3. Form 1120S S Corporation Income Tax Return
  - a) Shareholder loans
  - b) Basis limitations
4. Form 1041 Trust Returns
  - a) Beneficiary Income

*Complete individual income tax returns are a necessity in a family law case. See sample returns provided*

# FORM 1040 CONSIDERATIONS

1. Gross Wages vs Taxable wages
  - a) S Corporation health insurance
  - b) Paystub or W-2 detail beyond form W-2
2. S Corporation Income and cash flow
  - a) Basis and shareholder loans
3. Non taxable payments/ deductions
  - a) EIDL Grants
  - b) Payroll Protection Program debt forgiveness
  - c) Employee Retention Credit

## Tax Assets In Divorce

1. Form 1040
  - a) Net operating loss carryover
  - b) Business loss limitation
2. Schedule D
  - a) Capital loss carryovers
3. Schedule E
  - a) Passive activity losses (1/2 current spouse and other half added to basis). Assets transferred pursuant to code section 1041 transfer holding period and basis.

## Tax Assets In Divorce

4. Schedule A
  - a) Investment Interest expense
  - b) Charitable Contributions
5. Overpayment to following tax year
6. Credit Carryovers

**First to File**

# BUSINESS TAX RETURNS

- ✓ Form 1065 Partnership Return

- ✓ Ordinary income and flow through to line 4, 5, 6
- ✓ Schedule K-1
- ✓ Basis of accounting
- ✓ Schedule K-2 & K-3
- ✓ Balance Sheet and partner receivables

- ✓ Form 1120S S Corporation Return

- ✓ Ordinary income and flow through to line 4, 5, 6
- ✓ Schedule K-1
- ✓ Basis of accounting
- ✓ Schedule K-2 & K-3
- ✓ Shareholder Basis schedule and shareholder loans or receivables

# DIVORCING TAXPAYER CONSIDERATIONS<sup>6</sup>

## ➤ Appropriate Filing Status

- In year of divorce
  - Married filing separate – what income is reported?
  - Married filing joint
- During divorce process
  - Married filing joint
  - Married filing separate- what income is reported?
  - Single
  - Head of household

## ➤ Dependents

- No longer have dependency exemptions
- Child Tax Credit
- Dependent care credits
- Education credits
- Does not mean you can file an incorrect filing status or take credits you are not entitled to under the tax law

# DIVORCING TAXPAYER CONSIDERATIONS<sup>7</sup>

## ➤ Allocation of income in year of separation

- W-2 Income
  - Through date of separation 50/50 – get paystub
  - DOS through year end- to earning spouse
- Schedule C or Partnership earned income
  - Through date of separation 50/50 – closing of the books
  - DOS through year end- to earning spouse
- Community income 50/50 entire year until .....
  - Rental Income
  - Investment Income
  - Retirement income
- Separate income to separate property spouse all year
  - Rental Income
  - Investment Income
  - Retirement income

## ➤ Allocation of deductions in year of separation

- Through date of separation:
  - Mortgage interest through date of separation 50/50
  - Property taxes
  - Estimated taxes
  - Other credits and payments
- Reminder of year
  - Mortgage interest – depends on title of home
  - Property taxes – depends on title of home

How do we report community assets with separate participation?

Are these part separate income and community income?

# DIVORCING TAXPAYER CONSIDERATIONS<sup>8</sup>

- Filing Status- Married Filings Separate & Married Filing Joint Tax brackets and rates

	Filing Status	
Tax Rates	MFS	MFJ
10%	\$1-10,275	\$1-20,550
12%	10,276-41,775	20,551-83,550
22%	41,776-89,075	83,551-178,150
24%	89,076-170,050	178,151-340,100
32%	170,051-215,950	340,101-431,900
35%	215,951-323,925	431,901-647,850
37%	323,926 and over	647,851 and over

# CHANGES IN RECENT TAX LAW IMPACTING DIVORCING TAXPAYERS

- Form 8332 and exemption deduction suspended for tax years 2018 through 2025
- Payments of mortgage interest and property taxes by non occupying spouse
- Form 8958 Allocation of Tax Amounts Between Certain Individuals in Community Property States
- Form 8962 Premium tax credit



# TAX RETURN AS A TOOL IN FAMILY LAW

What information can I obtain as an expert from an individual income tax return:

- Employment
- Assets held at different institutions- where they bank
- Real property owned and date acquired
- Personal Property
- Cost of health insurance and medical expenses
- Gross income from self employment
- Assets owned by self employed business
- Date of birth of taxpayers, county of residence, foreign asset holdings and crypto currency holdings

# TAX RETURN AS A TOOL IN FAMILY LAW

## A Starting Point for Completion of form FL-142:

- ✓ Schedule B
- ✓ Schedule D
- ✓ Schedule A
- ✓ Schedule E pg. 1
- ✓ Schedule E pg. 2

## A Starting Point for Completion of form FL-150:

- ✓ Schedule A

# TAX WORKPAPERS AS A KEY

## TO ANSWERING MANY QUESTIONS FOR THE OUT SPOUSE

What are tax workpapers?

- Tax documents received by taxpayer including but not limited to
  - W-2 forms
  - 1099 INT
  - 1099 DIV
  - 1099 Consolidated
  - 1099 Misc.
  - 1099 R
  - 1098 Mortgage Interest Statement
  - Property tax bills
  - Letters of confirmation of charitable contributions
- Client Tax organizer
  - Answers pertinent questions regarding income and expenses
  - Provides details of estimated tax payments
  - Business expenses
  - Rental expenses

What about the CPA/ Tax Preparer?

# FAMILY LAW CONSIDERATIONS

- ❖ Filing Status
- ❖ Dependents
- ❖ Tax filing status and dependents as part of the disomaster input
- ❖ Allocation of community income and expenses until support is issued
- ❖ Difficulties of the “out spouse” – using the tax return as a starting point
- ❖ Case Law and proper reporting of income
- ❖ Deductibility of property taxes, interest for marital home
- ❖ Cash income not reported during marriage
- ❖ Community tax obligations during the marriage
- ❖ Married filing joint

# CALIFORNIA

[Alimony | FTB.ca.gov](https://ftb.ca.gov)

[Link to FTB website under title.](#)

### Spousal support

When a couple legally divorces or separates, the court may order one spouse/RDP to pay the other a certain amount of monthly support.

In California:

- If you **receive** alimony payments, you must report it as income on your California return.
- If you **pay** alimony to a former spouse/RDP, you're allowed to deduct it from your income on your California return.

**We do not conform to the federal Alimony changes effective January 1, 2019. How to report Marriage settlement agreement signed on or before 12/31/2018**

- **Federal return:** Report your alimony received or paid when you file your federal return
- **California return:** This information is included in your federal AGI, which you'll report on your California return

**Marriage settlement agreement signed on or after 01/01/2019**

- **Federal return:** Do not report your alimony received or paid on your 1040
- **California return:** You'll need to make an adjustment on your Schedule CA for alimony received or paid.

# INNOCENT SPOUSE RELIEF

- Form 8857 – Request for Innocent Spouse Relief
- Eligibility limited to joint returns filed within three years or within 2 years of receiving an IRS notice or notice of deficiency
- Knowledge of errors
- Innocent spouse relief, separation of liability and equitable relief.
- What is injured spouse relief? There's a form for that too. Form 8379
- Signed e-file forms or signed tax return

# SUMMARY

- ✓ Its complicated and many detailed factors are necessary to accurately prepare divorced or divorcing taxpayer tax returns
- ✓ Taxes impact support and many other decisions in family law
- ✓ Properly reporting community income in year of separation is challenging and often reported incorrectly.
- ✓ The “Pandemic Period” further creates difficulties in using filed tax returns for cash flow and business valuation in family law.
- ✓ Even the most basic tax return is complicated for a divorcing taxpayer.

# THANK YOU

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# Claiming a child as a dependent when parents are divorced, separated or live apart

IRS Tax Tip 2022-98, June 28, 2022

Parents who are divorced, separated, never married or live apart and who share custody of a child with an ex-spouse or ex-partner need to understand the specific rules about who may be eligible to claim the child for tax purposes. This can make filing taxes easier for both parents and avoid errors that may lead to processing delays or costly tax mistakes.

## Only one person may be eligible to claim the qualifying child as a dependent.

Only one person can claim the tax benefits related to a dependent child who meets the qualifying child rules [PDF](#). Parents can't share or split up the tax benefits for their child on their respective tax returns.

It's important that each parent understands who will claim their child on their tax return. If two people claim the same child on different tax returns, it will slow down processing time while the IRS determines which parent's claim takes priority.

## Custodial parents generally claim the qualifying child as a dependent on their return.

- The custodial parent is the parent with whom the child lived for the greater number of nights during the year. The other parent is the noncustodial parent.
- In most cases, because of the residency test, the custodial parent claims the child on their tax return.
- If the child lived with each parent for an equal number of nights during the year, the custodial parent is the parent with the higher adjusted gross income.
- 

## Tie-breaker rules may apply if the child is a qualifying child of more than one person.

- Although the child may meet the conditions to be a qualifying child of either parent, only one person can actually claim the child as a qualifying child, provided the taxpayer is eligible.
- People should carefully read Publication 504, Divorced or Separated Individuals to understand who is eligible to claim a qualifying child.

# Noncustodial parents may be eligible to claim a qualifying child.

Special rules apply for a child to be treated as a qualifying child of the noncustodial parent.

- The custodial parent can release the dependency exemption and sign a written declaration or Form 8332, Release/Revocation of Release of Claim to Exemption for Child by Custodial Parent [PDF](#) for the noncustodial parent to submit with their tax return.
- This also applies to some tax benefits, including the child tax credit, additional child tax credit, and credit for other dependents. It doesn't apply to other tax benefits, such as the earned income credit, dependent care credit or head of household filing status.

## More information:

- [Publication 501, Dependents, Standard Deduction, and Filing Information](#)
- [Whom May I Claim as a Dependent?](#)

[Subscribe to IRS Tax Tips](#)

*Page Last Reviewed or Updated: 01-May-2023*

# Release/Revocation of Release of Claim to Exemption for Child by Custodial Parent

► Attach a separate form for each child.  
► Go to [www.irs.gov/Form8332](http://www.irs.gov/Form8332) for the latest information.

OMB No. 1545-0074

Attachment  
Sequence No. **115**

Name of noncustodial parent \_\_\_\_\_

Noncustodial parent's  
social security number (SSN) ► \_\_\_\_\_

**Note:** This form also applies to some tax benefits, including the child tax credit, additional child tax credit, and credit for other dependents. It doesn't apply to other tax benefits, such as the earned income credit, dependent care credit, or head of household filing status. See the instructions and Pub. 501.

## Part I Release of Claim to Exemption for Current Year

I agree not to claim an exemption for \_\_\_\_\_  
Name of child  
for the tax year 20 \_\_\_\_.

\_\_\_\_\_  
Signature of custodial parent releasing claim to exemption

\_\_\_\_\_  
Custodial parent's SSN

\_\_\_\_\_  
Date

**Note:** If you choose not to claim an exemption for this child for future tax years, also complete Part II.

## Part II Release of Claim to Exemption for Future Years (If completed, see Noncustodial Parent on page 2.)

I agree not to claim an exemption for \_\_\_\_\_  
Name of child  
for the tax year(s) \_\_\_\_\_.  
(Specify. See instructions.)

\_\_\_\_\_  
Signature of custodial parent releasing claim to exemption

\_\_\_\_\_  
Custodial parent's SSN

\_\_\_\_\_  
Date

## Part III Revocation of Release of Claim to Exemption for Future Year(s)

I revoke the release of claim to an exemption for \_\_\_\_\_  
Name of child  
for the tax year(s) \_\_\_\_\_.  
(Specify. See instructions.)

\_\_\_\_\_  
Signature of custodial parent revoking the release of claim to exemption

\_\_\_\_\_  
Custodial parent's SSN

\_\_\_\_\_  
Date

## General Instructions

### What's New

**Exemption deduction suspended.** The deduction for personal exemptions is suspended for tax years 2018 through 2025 by the Tax Cuts and Jobs Act. Although the exemption amount is zero, eligibility to claim an exemption may make you eligible for other tax benefits. See Pub. 501 for details. Although taxpayers can't claim a deduction for exemptions, eligibility to claim an exemption for a child remains important for determining who may claim the child tax credit, the additional child tax credit, and the credit for other dependents, as well as other tax benefits. See the instructions and Pub. 501 for details.

### Purpose of Form

If you are the custodial parent, you can use this form to do the following.

- Release a claim to exemption for your child so that the noncustodial parent can claim an exemption for the child and claim the child tax credit, the additional child tax credit, and the credit for other dependents (if applicable).
- Revoke a previous release of claim to exemption for your child.

**Release of claim to exemption.** Complete this form (or sign a similar statement containing the same information required by this form) and give it to the noncustodial parent. The noncustodial parent must attach this form or similar statement to his or her tax return each year the exemption is claimed. Use Part I to release a claim to the exemption for the current year. Use Part II if you choose to release a claim to exemption for any future year(s).

**Note:** If the decree or agreement went into effect after 1984 and before 2009, you can attach certain pages from the decree or agreement instead of Form 8332, provided that these pages are substantially similar to Form 8332. See *Post-1984 and pre-2009 decree or agreement* on page 2.

**Revocation of release of claim to exemption.** Use Part III to revoke a previous release of claim to an exemption. The revocation will be effective no earlier than the tax year following the year in which you provide the noncustodial parent with a copy of the revocation or make a reasonable effort to provide the noncustodial parent with a copy of the revocation. Therefore, if you revoked a release on Form 8332 and provided a copy of the form to the noncustodial parent in 2018, the earliest tax year the revocation

can be effective is 2019. You must attach a copy of the revocation to your tax return each year the exemption is claimed as a result of the revocation. You must also keep for your records a copy of the revocation and evidence of delivery of the notice to the noncustodial parent, or of reasonable efforts to provide actual notice.

### Custodial Parent and Noncustodial Parent

The custodial parent is generally the parent with whom the child lived for the greater number of nights during the year. The noncustodial parent is the other parent. If the child was with each parent for an equal number of nights, the custodial parent is the parent with the higher adjusted gross income. For details and an exception for a parent who works at night, see Pub. 501.

### Dependent Child

A dependent is either a qualifying child or a qualifying relative. See the instructions for your tax return for the definition of these terms. Generally, a child of divorced or separated parents will be a qualifying child of the custodial parent. However, if the special rule on page 2 applies, then the child will be treated as the qualifying child or qualifying

relative of the noncustodial parent for purposes of the dependency exemption, the child tax credit, the additional child tax credit, and the credit for other dependents.

## Special Rule for Children of Divorced or Separated Parents

A child is treated as a qualifying child or a qualifying relative of the noncustodial parent if all of the following apply.

1. The child received over half of his or her support for the year from one or both of the parents (see the *Exception* below). If you received payments under the Temporary Assistance for Needy Families (TANF) program or other public assistance program and you used the money to support the child, see Pub. 501.

2. The child was in the custody of one or both of the parents for more than half of the year.

3. Either of the following applies.

a. The custodial parent agrees not to claim an exemption for the child by signing this form or a similar statement. If the decree or agreement went into effect after 1984 and before 2009, see *Post-1984 and pre-2009 decree or agreement* below.

b. A pre-1985 decree of divorce or separate maintenance or written separation agreement states that the noncustodial parent can claim the child as a dependent. But the noncustodial parent must provide at least \$600 for the child's support during the year. This rule does not apply if the decree or agreement was changed after 1984 to say that the noncustodial parent cannot claim the child as a dependent.

For this rule to apply, the parents must be one of the following.

- Divorced or legally separated under a decree of divorce or separate maintenance.
- Separated under a written separation agreement.
- Living apart at all times during the last 6 months of the year.

If this rule applies, and the other dependency tests in the instructions for your tax return are also met, the noncustodial parent can claim an exemption for the child.

**Exception.** If the support of the child is determined under a multiple support agreement, this special rule does not apply, and this form should not be used.

**Post-1984 and pre-2009 decree or agreement.** If the divorce decree or separation agreement went into effect after 1984 and before 2009, the noncustodial parent can attach certain pages from the decree or agreement

instead of Form 8332, provided that these pages are substantially similar to Form 8332. To be able to do this, the decree or agreement must state all three of the following.

1. The noncustodial parent can claim the child as a dependent without regard to any condition (such as payment of support).
2. The other parent will not claim the child as a dependent.
3. The years for which the claim is released.

The noncustodial parent must attach all of the following pages from the decree or agreement.

- Cover page (include the other parent's SSN on that page).
- The pages that include all of the information identified in (1) through (3) above.
- Signature page with the other parent's signature and date of agreement.



*The noncustodial parent must attach the required information even if it was filed with a return in an earlier year.*

**Post-2008 decree or agreement.** If the divorce decree or separation agreement went into effect after 2008, the noncustodial parent can't attach certain pages from the decree or agreement instead of Form 8332.

## Specific Instructions

### Custodial Parent

**Part I.** Complete Part I to release a claim to exemption for your child for the current tax year.

**Part II.** Complete Part II to release a claim to exemption for your child for one or more future years. Write the specific future year(s) or "all future years" in the space provided in Part II.



*To help ensure future support, you may not want to release your claim to the exemption for the child for future years.*

**Part III.** Complete Part III if you are revoking a previous release of claim to exemption for your child. Write the specific future year(s) or "all future years" in the space provided in Part III.

The revocation will be effective no earlier than the tax year following the year you provide the noncustodial parent with a copy of the revocation or make a reasonable effort to provide the noncustodial parent with a copy of the revocation. Also, you must attach a copy of the revocation to your tax return for each year you are claiming the exemption as a result of the revocation. You must also keep for your records a copy of the revocation and evidence of delivery of the notice to the noncustodial parent, or of reasonable efforts to provide actual notice.

**Example.** In 2015, you released a claim to exemption for your child on Form 8332 for the years 2016 through 2020. In 2018, you decided to revoke the previous release of exemption. If you completed Part III of Form 8332 and provided a copy of the form to the noncustodial parent in 2018, the revocation will be effective for 2019 and 2020. You must attach a copy of the revocation to your 2019 and 2020 tax returns and keep certain records as stated earlier.

### Noncustodial Parent

Attach this form or similar statement to your tax return for each year you claim the exemption for your child. You can claim the exemption only if the other dependency tests in the instructions for your tax return are met.



*If the custodial parent released his or her claim to the exemption for the child for any future year, you must attach a copy of this form or similar statement to your tax return for each future year that you claim the exemption. Keep a copy for your records.*

**Note:** If you are filing your return electronically, you must file Form 8332 with Form 8453, U.S. Individual Income Tax Transmittal for an IRS e-file Return. See Form 8453 and its instructions for more details.

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You aren't required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Internal Revenue Code section 6103.

The average time and expenses required to complete and file this form will vary depending on individual circumstances. For the estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.

# Allocation of Tax Amounts Between Certain Individuals in Community Property States

► Attach to Form 1040, 1040-SR, or 1040-NR.  
► Go to [www.irs.gov/Form8958](http://www.irs.gov/Form8958) for the latest information.

OMB No. 1545-0074

Attachment  
Sequence No. **63**

Your first name and initial	Your last name		Your social security number
Spouse's or partner's first name and initial	Spouse's or partner's last name		Spouse's or partner's social security number
	A Total Amount	B Allocated to Spouse or RDP SSN ____ - ____ - ____	C Allocated to Spouse or RDP SSN ____ - ____ - ____
<b>1</b> Wages (each employer)			
<b>2</b> Interest Income (each payer)			
<b>3</b> Dividends (each payer)			
<b>4</b> State Income Tax Refund			
<b>5</b> Self-Employment Income (See instructions)			
<b>6</b> Capital Gains and Losses			
<b>7</b> Pension Income			
<b>8</b> Rents, Royalties, Partnerships, Estates, Trusts			



## General Instructions

**Future developments.** For the latest information about developments related to Form 8958 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/Form8958](http://www.irs.gov/Form8958).

### Purpose of Form

Use Form 8958 to determine the allocation of tax amounts between married filing separate spouses or registered domestic partners (RDPs) with community property rights. If you need more room, attach a statement listing the source of the item and the total plus the allocated amounts. Be sure to put your name and social security number (SSN) on the statements and attach them at the end of your return.

Community property laws affect how you figure your income on your federal income tax return if you are married, live in a community property state or country, and file separate returns.

This form is intended for individuals who:

1. Are subject to community property laws, and
2. File separate federal income tax returns.

See Pub. 555, Community Property, for more information.

### Community or Separate Income

In a community property state, if you file a federal tax return separately from your spouse, you must report half of all community income and all of your separate income. Likewise, a RDP must report half of all community income and all of his or her separate income on his or her federal tax return. Generally, the laws of the state in which you are domiciled govern whether you have community income or separate income for federal tax purposes.

Generally, community income is income from:

- Community property;
- Salaries, wages, or pay for services of you, your spouse or RDP, or both during your marriage or registered domestic partnership; or
- Real estate that is treated as community property under the laws of the state where the property is located.

Generally, income from separate property is the separate income of the spouse or RDP who owns the property.

Special rules apply for spouses living apart all year and for spouses one or both of whom are nonresident aliens.

For more information, see Pub. 555, Community Property.

### Identifying Income and Deductions

You and your spouse or RDP must be able to identify your community and separate income, deductions, credits, and other return amounts according to the laws of your state.

### Income

The following is a discussion of the general effect of community property laws on the federal income tax treatment of certain items of income.

#### Wages and self-employment income from sole proprietorship.

A spouse's or RDP's wages and self-employment income from a sole proprietorship are community income and must be evenly split.



*For RDPs, the self-employment income from a sole proprietorship is also split for self-employment tax purposes. See Self-employment tax, later.*

**Interest, dividends, and rents.** Interest, dividends, and rents from community property are community income and must be evenly split.

**Gains and losses.** Gains and losses are classified as community or separate depending on how the property is held.

#### Withdrawals from individual retirement arrangements (IRAs).

There are several kinds of individual retirement arrangements (IRAs). Distributions of IRAs by law are deemed to be separate property, even if the funds in the account would otherwise be community property.

These distributions are wholly taxable to the spouse or RDP whose name is on the account. That spouse or RDP is also liable for any penalties and additional taxes on the distributions.

**Pensions.** Generally, distributions from pensions will be characterized as community or separate income depending on the respective periods of participation in the pension while married (or during the registered domestic partnership) and domiciled in a community property state or in a noncommunity property state during the total period of participation in the pension. These rules may vary between states.

**Partnership income.** If an interest is held in a partnership, and income from the partnership is attributable to the efforts of either spouse or RDP, the partnership income is community property.



*For RDPs, the self-employment income from a partnership is also split for self-employment tax purposes. See Self-employment tax, later.*

**Tax-exempt income.** For spouses, community income exempt from federal tax generally keeps its exempt status for both spouses. For example, under certain circumstances, income earned outside the United States is tax exempt. If you earned income and met the conditions that made it exempt, the income is also exempt for your spouse even though he or she may not have met the conditions. RDPs should consult the particular exclusion provision to see if the exempt status applies to both.

**Income from separate property.** In some states, income from separate property is separate income. Other states characterize income from separate property as community income.

For more information, see Pub. 555. For specific information that pertains to your situation, check with the laws of your state.

### Deductions

If you file separate returns, your deductions generally depend on whether the expenses involve community or separate income.

**Business and investment expenses.** If you file separate returns, expenses incurred to earn or produce community business or investment income are generally divided equally between you and your spouse or RDP. Each of you is entitled to deduct one-half of the expenses on your separate returns. Separate business or investment income are deductible by the spouse or RDP who earns the income.

Other limits may also apply to business and investment expenses. For more information, see Pub. 535, Business Expenses, Pub. 550, Investment Income and Expenses, and Pub. 555.

**IRA deduction.** Deductions for IRA contributions cannot be split between spouses or RDPs. The deduction for each spouse or RDP is figured separately and without regard to community property laws.

**Personal expenses.** Expenses that are paid out of separate funds, such as medical expenses, are deductible by the spouse or RDP who pays for them. If these expenses are paid from community funds, divide the deduction equally between you and your spouse or RDP.

**Deductible portion of self-employment tax.** The deductible portion of the self-employment tax is split only when the self-employment tax is split by the spouses or RDPs. See *Self-employment tax*, later.

### Credits, Taxes, and Payments

**Self-employment tax.** Although the self-employment tax rules contain a provision that overrides community income treatment in the case of spouses (IRC 1402(a)(5)), this provision does not apply to RDPs. RDPs split self-employment income from sole proprietorships and partnerships for self-employment tax purposes.

The following rules apply only to persons married for federal tax purposes.

**Sole proprietorship.** With regard to net income from a trade or business (other than a partnership) that is community income, self-employment tax is imposed on the spouse carrying on the trade or business.

**Partnerships.** All of the distributive share of a married partner's income or loss from a partnership trade or business is attributable to the partner for computing any self-employment tax, even if a portion of the partner's distributive share of income or loss is community income or loss that is attributable to the partner's spouse for income tax purposes. If both spouses are partners, any self-employment tax is allocated based on their distributive shares.

**Federal income tax withheld.** If you and your spouse file separate returns on which each of you reports half the community wages, each of you is entitled to credit for half the income tax withheld on those wages. Likewise, each RDP is entitled to credit for half the income tax withheld on those wages.

To determine estimated tax payments, earned income credit, and overpayments, see Pub. 555 for more information. For specific information that pertains to your situation, check with the laws of your state.

## Specific Instructions

### How To Complete Form 8958

To complete Form 8958, identify your community or separate income, deductions, credits and other return amounts on the separate lines under the item name on lines 1 through 12.

Enter the total amount of your community or separate income, deductions, credits, and other return amounts on their respective lines in Column A. Enter each spouse's or RDP's allocation of these amounts in Column B and C. Together, Columns B and C should equal Column A.



*In a community property state, if you file a federal tax return separately from your spouse, you must report half of all community income and all of your separate income. Likewise, a RDP must report half of all community income and all of his or her separate income on his or her federal return. The laws of the state in which you are domiciled govern whether you have community income or separate income for federal tax purposes.*

#### Line 1

Identify the wages from each payer on separate lines. Enter the total from each payer in Column A. Allocate the total from Column A between each spouse or RDP in Columns B and C.

#### Line 2

Identify the interest from each payer on separate lines. Enter the total from each payer in Column A and allocate the total from Column A between each spouse or RDP in Columns B and C.

#### Line 3

Identify the dividends from each payer on separate lines. Enter the total from each payer in Column A and allocate the total from Column A between each spouse or RDP in Columns B and C.

#### Line 4

Identify the state income tax refund from each payer on separate lines. Enter the total from each payer in Column A and allocate the total from Column A between each spouse or RDP in Columns B and C.

#### Line 5

Identify the self-employment income from each entity on separate lines. Enter the total from each entity in Column A and allocate the total from Column A between each spouse or RDP in Columns B and C.

#### Line 6

Enter the gain or loss from each entity. Enter the total from each entity in Column A and allocate the total from Column A between each spouse or RDP in Columns B and C.

#### Line 7

Enter the pension income from each payer on separate lines. Enter the total from each payer in Column A and allocate the total from Column A between each spouse or RDP in Columns B and C.

#### Line 8

Identify the rent, royalty, partnership, estate, or trust item(s) on separate lines. Enter the total(s) from each item(s) in Column A and allocate the total(s) from Column A between each spouse or RDP in Columns B and C.

#### Line 9

Identify the deductible part of self-employment tax from each entity on separate lines. Enter the total from each entity in Column A and allocate the total from Column A between each spouse or RDP in Columns B and C.

#### Line 10

Identify the self-employment tax from each entity on separate lines. Enter the total from each entity in Column A and allocate the total from Column A between each spouse or RDP in Columns B and C.

#### Line 11

Identify the taxes withheld from each payer or entity on separate lines. Enter the total from each payer or entity in Column A and allocate the total from Column A between each spouse or RDP in Columns B and C.

#### Line 12

Identify any item not previously reported, such as social security benefits, unemployment compensation, deductions, credits, etc., on separate lines. Enter the total from each item in Column A; then allocate the total from each item from Column A between each spouse or RDP in Columns B and C.

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The average time and expenses required to complete and file this form will vary depending on individual circumstances. For the estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.

**THIS FORM SHOULD NOT BE FILED WITH THE COURT****FL-142**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address):

TELEPHONE NO.:

ATTORNEY FOR (Name):

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF**

PETITIONER:

RESPONDENT:

**SCHEDULE OF ASSETS AND DEBTS**☐ Petitioner's ☐ Respondent's

CASE NUMBER:

**— INSTRUCTIONS —**

List all your known community and separate assets or debts. Include assets even if they are in the possession of another person, including your spouse. If you contend an asset or debt is separate, put P (for Petitioner) or R (for Respondent) in the first column (separate property) to indicate to whom you contend it belongs.

All values should be as of the date of signing the declaration unless you specify a different valuation date with the description. For additional space, use a continuation sheet numbered to show which item is being continued.

ITEM NO.	ASSETS DESCRIPTION	SEP. PROP	DATE ACQUIRED	CURRENT GROSS FAIR MARKET VALUE	AMOUNT OF MONEY OWED OR ENCUMBRANCE
1.	REAL ESTATE (Give street addresses and attach copies of deeds with legal descriptions and latest lender's statement.)  Schedule A - Taxes section depreciation schedule for Sch E rentals business use of home depreciation schedule		Deprec Sch	\$	\$  form 1098 balance
2.	HOUSEHOLD FURNITURE, FURNISHINGS, APPLIANCES (Identify.) N/A				
3.	JEWELRY, ANTIQUES, ART, COIN COLLECTIONS, etc. (Identify.) N/A				

Page 1 of 4

ITEM NO.	ASSETS DESCRIPTION	SEP. PROP	DATE ACQUIRED	CURRENT GROSS FAIR MARKET VALUE	AMOUNT OF MONEY OWED OR ENCUMBRANCE
4.	VEHICLES, BOATS, TRAILERS <i>(Describe and attach copy of title document.)</i> Schedule A Personal Property			\$	\$
5.	SAVINGS ACCOUNTS <i>(Account name, account number, bank, and branch. Attach copy of latest statement.)</i> Schedule B				
6.	CHECKING ACCOUNTS <i>(Account name and number, bank, and branch. Attach copy of latest statement.)</i> Schedule B				
7.	CREDIT UNION, OTHER DEPOSIT ACCOUNTS <i>(Account name and number, bank, and branch. Attach copy of latest statement.)</i> Schedule B				
8.	CASH <i>(Give location.)</i>				
9.	TAX REFUND Tax Return overpayment to next year or refund amount\ - Federal - CA				
10.	LIFE INSURANCE WITH CASH SURRENDER OR LOAN VALUE <i>(Attach copy of declaration page for each policy.)</i>				

ITEM NO.	ASSETS DESCRIPTION	SEP. PROP	DATE ACQUIRED	CURRENT GROSS FAIR MARKET VALUE	AMOUNT OF MONEY OWED OR ENCUMBRANCE
11.	STOCKS, BONDS, SECURED NOTES, MUTUAL FUNDS (Give certificate number and attach copy of the certificate or copy of latest statement.) Schedule B or Schedule D or attached statements			\$	\$
12.	RETIREMENT AND PENSIONS (Attach copy of latest summary plan documents and latest benefit statement.) 1099-R or attached statement to tax return				
13.	PROFIT - SHARING, ANNUITIES, IRAS, DEFERRED COMPENSATION (Attach copy of latest statement.) 1099-R or attached statement to tax return				
14.	ACCOUNTS RECEIVABLE AND UNSECURED NOTES (Attach copy of each.) Schedule B- Interest income				
15.	PARTNERSHIPS AND OTHER BUSINESS INTERESTS (Attach copy of most current K-1 form and Schedule C.) Schedule E page two				
16.	OTHER ASSETS				
17.	TOTAL ASSETS FROM CONTINUATION SHEET				
18.	TOTAL ASSETS			\$	\$

ITEM NO.	DEBTS—SHOW TO WHOM OWED	SEP. PROP	TOTAL OWING	DATE INCURRED
19.	STUDENT LOANS <i>(Give details.)</i>		\$	
20.	TAXES <i>(Give details.)</i>			
21.	SUPPORT ARREARAGES <i>(Attach copies of orders and statements.)</i>			
22.	LOANS—UNSECURED <i>(Give bank name and loan number and attach copy of latest statement.)</i>			
23.	CREDIT CARDS <i>(Give creditor's name and address and the account number. Attach copy of latest statement.)</i>			
24.	OTHER DEBTS <i>(Specify.):</i>			
25.	TOTAL DEBTS FROM CONTINUATION SHEET			
26.	TOTAL DEBTS		\$	

27. ☐ *(Specify number):* \_\_\_\_\_ pages are attached as continuation sheets.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_

_____ (TYPE OR PRINT NAME)		_____ (SIGNATURE OF DECLARANT)
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PETITIONER: RESPONDENT: OTHER PARTY/PARENT/CLAIMANT:	CASE NUMBER:
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**Attach copies of your pay stubs for the last two months and proof of any other income. Take a copy of your latest federal tax return to the court hearing. (Black out your Social Security number on the pay stub and tax return.)**

5. **Income** (For average monthly, add up all the income you received in each category in the last 12 months and divide the total by 12.)

	Last month	Average monthly
a. Salary or wages (gross, before taxes).....	\$	\$
b. Overtime (gross, before taxes).....	\$	\$
c. Commissions or bonuses.....	\$	\$
d. Public assistance (for example: TANF, SSI, GA/GR) <input type="checkbox"/> currently receiving .....	\$	\$
e. Spousal support <input type="checkbox"/> from this marriage <input type="checkbox"/> from a different marriage <input type="checkbox"/> federally taxable* .....	\$	\$
f. Partner support <input type="checkbox"/> from this domestic partnership <input type="checkbox"/> from a different domestic partnership .....	\$	\$
g. Pension/retirement fund payments.....	\$	\$
h. Social Security retirement (not SSI).....	\$	\$
i. Disability: <input type="checkbox"/> Social Security (not SSI) <input type="checkbox"/> State disability (SDI) <input type="checkbox"/> Private insurance .....	\$	\$
j. Unemployment compensation.....	\$	\$
k. Workers' compensation.....	\$	\$
l. Other (military allowances, royalty payments) (specify): .....	\$	\$

6. **Investment income** (Attach a schedule showing gross receipts less cash expenses for each piece of property.)

a. Dividends/interest.....	\$	\$
b. Rental property income.....	\$	\$
c. Trust income.....	\$	\$
d. Other (specify): .....	\$	\$

7. **Income from self-employment, after business expenses for all businesses**..... \$

I am the ☐ owner/sole proprietor ☐ business partner ☐ other (specify):

Number of years in this business (specify):

Name of business (specify):

Type of business (specify):

**Attach a profit and loss statement for the last two years or a Schedule C from your last federal tax return. Black out your Social Security number. If you have more than one business, provide the information above for each of your businesses.**

8. ☐ **Additional income.** I received one-time money (lottery winnings, inheritance, etc.) in the last 12 months (specify source and amount):

9. ☐ **Change in income.** My financial situation has changed significantly over the last 12 months because (specify):

10. **Deductions**

	Last month	
a. Required union dues.....	\$	Sch A CA
b. Required retirement payments (not Social Security, FICA, 401(k), or IRA).....	\$	
c. Medical, hospital, dental, and other health insurance premiums (total monthly amount).....	\$	Sch A
d. Child support that I pay for children from other relationships.....	\$	
e. Spousal support that I pay by court order from a different marriage <input type="checkbox"/> federally tax deductible* .....	\$	
f. Partner support that I pay by court order from a different domestic partnership.....	\$	
g. Necessary job-related expenses not reimbursed by my employer (attach explanation labeled "Question 10g").....	\$	

11. **Assets**

	Total
a. Cash and checking accounts, savings, credit union, money market, and other deposit accounts.....	\$
b. Stocks, bonds, and other assets I could easily sell.....	\$
c. All other property, <input type="checkbox"/> real and <input type="checkbox"/> personal (estimate fair market value minus the debts you owe).....	\$

\* Check the box if the spousal support order or judgment was executed by the parties and the court before January 1, 2019, or if a court-ordered change maintains the spousal support payments as taxable income to the recipient and tax deductible to the payor.

PETITIONER: RESPONDENT: OTHER PARTY/PARENT/CLAIMANT:	CASE NUMBER:
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**12. The following people live with me:**

Name	Age	How the person is related to me (ex: son)	That person's gross monthly income	Pays some of the household expenses?
a.				<input type="checkbox"/> Yes <input type="checkbox"/> No
b.				<input type="checkbox"/> Yes <input type="checkbox"/> No
c.				<input type="checkbox"/> Yes <input type="checkbox"/> No
d.				<input type="checkbox"/> Yes <input type="checkbox"/> No
e.				<input type="checkbox"/> Yes <input type="checkbox"/> No

**13. Average monthly expenses**    ☐ Estimated expenses    ☐ Actual expenses    ☒ Proposed needs

- |   |  |
|---|--|
| <p>a. Home:</p> <p>(1) <input type="checkbox"/> Rent or <input type="checkbox"/> mortgage..... \$ _____</p> <p style="padding-left: 20px;">If mortgage:</p> <p style="padding-left: 40px;">(a) average principal: \$ _____</p> <p style="padding-left: 40px;">(b) average interest: \$ <u>Sch A</u></p> <p>(2) Real property taxes..... \$ <u>Sch A</u></p> <p>(3) Homeowner's or renter's insurance (if not included above)..... \$ _____</p> <p>(4) Maintenance and repair..... \$ <u>BUOH</u></p> <p>b. Health-care costs not paid by insurance..... \$ <u>Sch A</u></p> <p>c. Child care..... \$ <u>Form 2441</u></p> <p>d. Groceries and household supplies..... \$ _____</p> <p>e. Eating out..... \$ _____</p> <p>f. Utilities (gas, electric, water, trash)..... \$ <u>BUOH</u></p> <p>g. Telephone, cell phone, and e-mail..... \$ _____</p> | <p>h. Laundry and cleaning..... \$ _____</p> <p>i. Clothes..... \$ _____</p> <p>j. Education..... \$ _____</p> <p>k. Entertainment, gifts, and vacation..... \$ _____</p> <p>l. Auto expenses and transportation (insurance, gas, repairs, bus, etc.)..... \$ _____</p> <p>m. Insurance (life, accident, etc.; do not include auto, home, or health insurance)..... \$ _____</p> <p>n. Savings and investments..... \$ _____</p> <p>o. Charitable contributions..... \$ <u>Sch A</u></p> <p>p. Monthly payments listed in item 14 (itemize below in 14 and insert total here)..... \$ _____</p> <p>q. Other (specify): \$ _____</p> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> <p><b>r. TOTAL EXPENSES (a-q) (do not add in the amounts in a(1)(a) and (b))</b> \$ <u>0</u></p> </div> <p>s. Amount of expenses paid by others \$ _____</p> |
|---|--|

**14. Installment payments and debts not listed above**

Paid to	For	Amount	Balance	Date of last payment
		\$	\$	
		\$	\$	
		\$	\$	
		\$	\$	
		\$	\$	
		\$	\$	

**15. Attorney fees** (This information is required if either party is requesting attorney fees):

- a. To date, I have paid my attorney this amount for fees and costs (specify): \$ \_\_\_\_\_
- b. The source of this money was (specify): \_\_\_\_\_
- c. I still owe the following fees and costs to my attorney (specify total owed): \$ \_\_\_\_\_
- d. My attorney's hourly rate is (specify): \_\_\_\_\_

I confirm this fee arrangement.

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

# Request for Innocent Spouse Relief

OMB No. 1545-1596

► Go to [www.irs.gov/Form8857](http://www.irs.gov/Form8857) for instructions and the latest information.

## IMPORTANT THINGS YOU SHOULD KNOW

- Do not file this form with your tax return. See *Where To File* in the instructions.
- See the instructions for this form and Pub. 971, *Innocent Spouse Relief*, for help in completing this form and for a description of the factors the IRS takes into account in deciding whether to grant innocent spouse relief. The Form 8857 instructions and Pub. 971 are available at [www.irs.gov](http://www.irs.gov).
- Attach the complete copy of any document requested or that you otherwise believe will support your request for relief.
- The IRS is required by law to notify the person listed on line 6 that you have requested this relief. That person will have the opportunity to participate in the process by completing a questionnaire about the tax years you enter on line 3 (the years for which you want innocent spouse relief).
- The IRS will not disclose the following information: your current name, address, phone numbers, or employer(s).
- **Note:** If you petition the Tax Court to review your request for relief, the Tax Court may only be allowed to consider information you or the person on line 6 provided us before we made our final determination, additional information we included in our administrative file about your request for relief, and any information that is newly discovered or previously unavailable. Therefore, it is important that you provide us with all information you want us or the Tax Court to consider.

**Note:** If you need more room to write your answer for any question, attach more pages. Be sure to write your name and social security number on the top of all pages you attach.

## Part I Should you file this form?

Generally, both taxpayers who file a joint return are responsible, jointly and individually, for paying any tax, interest, or penalties from your joint return. If you believe the person with whom you filed a joint return should be solely responsible for an erroneous item or an underpayment of tax from your joint tax return, you may be eligible for innocent spouse relief.

Innocent spouse relief may also be available if you were a resident of a community property state (see list of community property states in the instructions) and did not file a joint federal income tax return and you believe you should not be held responsible for the tax attributable to an item of community income.

### 1 Do either of the paragraphs above describe your situation?

- ☐ Yes. You can file this Form 8857. Go to line 2.  
☐ No. Do not file this Form 8857, but go to line 2 to see if you can file a different form.

### 2 Did the IRS take your share of a joint refund from any tax year to pay any of the following past-due debt(s) owed ONLY by the person listed on line 6?

- Child support • Spousal support • Student loan (or other federal nontax debt) • Federal or state taxes

- ☐ Yes. You may be able to get back your share of the refund. See Form 8379, *Injured Spouse Allocation*, and its instructions. Go to line 3 if you answered "Yes" to line 1.  
☐ No. Go to line 3 if you answered "Yes" to line 1. If you answered "No" to line 1, do not file this form.

### 3 If you determine you should file this form, enter each tax year you want innocent spouse relief. It is important to enter the correct year. For example, if the IRS used your 2020 income tax refund to pay a 2018 joint tax liability, enter tax year 2018, not tax year 2020.

Tax Year \_\_\_\_\_ Tax Year \_\_\_\_\_ Tax Year \_\_\_\_\_  
 Tax Year \_\_\_\_\_ Tax Year \_\_\_\_\_ Tax Year \_\_\_\_\_

## Part II Tell us about yourself and the person listed on line 6 for the tax years you want relief.

### 4 Is English your primary or preferred language?

- ☐ Yes.  
☐ No. If "No," what is your primary or preferred language?

### 5 Your current name (see instructions)

**Your social security number**

**Address where you wish to be contacted.** Check here if you want the IRS to send all mail for you, including legal notices, to this address (see instructions): . . . . . ☐

Number and street or P.O. box

Apt. no. **County**

City, town or post office, state, and ZIP code. If a foreign address, see instructions.

Best or safest daytime phone number (between 6 a.m. and 5 p.m. Eastern time)

Check here if you consent to the IRS leaving a voicemail message at this number ► ☐

<b>Your current name</b>	<b>Your social security number</b>
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**Note:** If you need more room to write your answer for any question, attach more pages. Be sure to write your name and social security number on the top of all pages you attach.

**6 Who was your spouse for the tax years you want relief?** File a separate Form 8857 for tax years involving different spouses or former spouses.

That person's current name	<b>Social security number</b> (if known)
Current home address (number and street) (if known). If a P.O. box, see instructions.	Apt. no.
City, town or post office, state, and ZIP code. If a foreign address, see instructions.	Daytime phone number (between 6 a.m. and 5 p.m. Eastern time)

**7 What is the current marital status between you and the person on line 6?**

☐ Married and still living together

☐ Married and living apart since \_\_\_\_\_ MM/DD/YYYY

☐ Widowed since \_\_\_\_\_ MM/DD/YYYY Attach a photocopy of the death certificate and will (if one exists).

☐ Legally separated since \_\_\_\_\_ MM/DD/YYYY Attach a photocopy of your **entire** separation agreement.

☐ Divorced since \_\_\_\_\_ MM/DD/YYYY Attach a photocopy of your **entire** divorce decree.

**Note:** A divorce decree stating that your former spouse must pay all taxes does not necessarily mean you qualify for relief.

**8 What was the highest level of education you had completed when the return or returns were filed?** If the answers are **not** the same for all tax years, explain below.

☐ Did not complete high school

☐ High school diploma or equivalent

☐ Some college

☐ College degree or higher. List any degrees you have ► \_\_\_\_\_

List any college-level business or tax-related courses you completed ► \_\_\_\_\_

Explain ► \_\_\_\_\_

**9 When any of the returns listed on line 3 were filed, did you have a mental or physical health problem or do you have a mental or physical health problem now?** If the answers are **not** the same for all tax years, explain below.

☐ Yes. Attach a statement to explain the problem and when it started. Provide photocopies of any documentation, such as medical bills or a doctor's report or letter.

☐ No.

Explain ► \_\_\_\_\_

**10 Is there any information you are afraid to provide on this form, but are willing to discuss?** ☐ Yes ☐ No

**Part III Tell us if and how you were involved with finances and preparing returns for the tax years you want relief.**

**11 Did you intend to file a joint return for the tax year(s) listed on line 3?** See instructions. ☐ Yes ☐ No

Explain why or why not ► \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Your current name****Your social security number**

**Note:** If you need more room to write your answer for any question, attach more pages. Be sure to write your name and social security number on the top of all pages you attach.

- 12 Describe your involvement in preparing the returns.** Include details such as whether you prepared or assisted in the preparation of joint returns (for example, by providing Forms W-2 or 1099, gathering receipts, canceled checks, or other documentation), and whether you reviewed the returns before they were filed (and, if you did not review them, why not). If you were not involved in preparing the returns, did you agree to file the joint returns or did you know that the joint returns were filed? Explain below.
- 
- 
- 
- 13 Explain what you knew about the income of the person on line 6 when the returns were filed.** For example, describe each type of income that person had (such as wages, social security, gambling winnings, or self-employment business income), the amount of each type of income, and the year it was received. If that person had income you didn't know about when the returns were filed, explain why you did not know. If the person on line 6 was self-employed, explain whether and how you helped that person with the books and records.
- 
- 
- 
- 14 Explain what you knew about any missing information on the returns when they were filed, and whether you asked about anything on the returns that you knew was missing.** Also, explain what you knew about any incorrect information on the returns, even if you did not know the information was incorrect when the returns were filed, and whether you asked about anything on the returns that was incorrect. For example, if there was a deduction or credit on the returns, were you aware of any facts that made the item not allowable as a deduction or credit? If the answer is not the same for all tax years, explain below.
- 
- 
- 
- 15 If the returns showed a balance due to the IRS, explain when and how you thought the balance due would be paid.** If you didn't know the returns showed a balance due, explain why not.
- 
- 
- 
- 16 Describe any financial problems you were having when the returns were filed, such as bankruptcy or bills you could not pay.** If the financial problems were not the same for all tax years, explain below.
- 
- 
- 
- 17 Describe how you were involved in the household finances and your role in deciding how money was spent.** For example, explain whether you and the person on line 6 had joint accounts and how you or the person on line 6 used them (such as by making deposits, paying bills from those accounts, or reviewing the monthly bank statements). Explain what you knew about any separate accounts the person on line 6 had. If your involvement was not the same for all tax years, explain below.
- 
- 
- 
- 18 For the years you want relief, did you or the person on line 6 incur any large purchases and/or expenses?** ☐ Yes ☐ No  
If "Yes," describe any large expenses you or the person on line 6 incurred (such as trips, home improvements, or private schooling), or any large purchases you or the person on line 6 made (such as automobiles, appliances, jewelry, etc.). Include the types and amounts of the expenses and purchases and the years they were incurred or made.
- 
- 
-

**Your current name****Your social security number**

**Note:** If you need more room to write your answer for any question, attach more pages. Be sure to write your name and social security number on the top of all pages you attach.

**19 Did the person on line 6 transfer any assets to you?** ☐ Yes ☐ No

If "Yes," list the assets (money or property, such as real estate, stocks, bonds, or other property) the person on line 6 transferred to you. Include the dates they were transferred and their fair market value on the dates of transfer. If the property was secured by any debt (such as a mortgage on real estate), explain who was responsible for making payments on the debt, how much was owed on the debt at the time of transfer, and whether the debt has been satisfied. Explain why the assets were transferred to you. If you no longer possess or own the assets, explain what happened to the assets.

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**Part IV Tell us about your current financial situation.**

**20 Tell us about your assets.** Your assets are your money and property. Property includes real estate, motor vehicles, stocks, bonds, and other property that you own. In the table below, list the amount of cash you have on hand and in your bank accounts. Also, list each item of property, the fair market value (as defined in the instructions) of each item, and the balance of any outstanding loans you used to acquire each item.

Description of Asset	Fair Market Value	Balance of Any Outstanding Loans You Used To Acquire the Asset

**21 How many people are you currently supporting, including yourself?** \_\_\_\_\_

**22 Tell us your current average monthly income and expenses for your entire household.**

Monthly Income—If family or friends are helping to support you, include the amount of support as gifts below.	Amount
Gifts . . . . .	
Wages (gross pay) . . . . .	
Pensions . . . . .	
Unemployment . . . . .	
Social security . . . . .	
Government assistance, such as housing, food stamps, grants, etc. . . . .	
Alimony . . . . .	
Child support . . . . .	
Self-employment business income . . . . .	
Rental income . . . . .	
Interest and dividends . . . . .	
Other income, such as disability payments, gambling winnings, etc. List each type below:	
Type -----	
Type -----	
Type -----	
<b>Total Monthly Income</b>	

**Your current name****Your social security number**

**Note:** If you need more room to write your answer for any question, attach more pages. Be sure to write your name and social security number on the top of all pages you attach.

<b>Monthly Expenses</b> —Enter all expenses, including expenses paid with income from gifts.	<b>Amount</b>
<b>Food and Personal Care:</b>	
Food . . . . .	
Housekeeping supplies . . . . .	
Clothing and clothing services . . . . .	
Personal care products and services . . . . .	
<b>Transportation:</b>	
Auto loan/lease payment, gas, insurance, licenses, parking, maintenance, etc. . . . .	
Public transportation . . . . .	
<b>Housing and Utilities:</b>	
Rent or mortgage . . . . .	
Real estate taxes and insurance . . . . .	
Electric, oil, gas, water, trash, etc. . . . .	
Telephone and cell phone . . . . .	
Cable and Internet . . . . .	
<b>Medical:</b>	
Health insurance premiums . . . . .	
Out-of-pocket expenses . . . . .	
<b>Other:</b>	
Child and dependent care . . . . .	
Caregiver expenses . . . . .	
Income tax withholding (federal, state, and local) . . . . .	
Estimated tax payments . . . . .	
Term life insurance premiums . . . . .	
Retirement contributions (employer required) . . . . .	
Retirement contributions (voluntary) . . . . .	
Union dues . . . . .	
Unpaid state and local taxes (minimum payment) . . . . .	
Student loans (minimum payment) . . . . .	
Court-ordered debt payments (for example, court- or agency-ordered child support, alimony, and garnishments). List each type below:	
Type .....	
Type .....	
Type .....	
Miscellaneous . . . . .	
<b>Total Monthly Expenses</b>	

**Part V Complete this part if you were (or are now) a victim of domestic violence or abuse.**

This information is not mandatory. See Pub. 971 for assistance. If you have concerns about your safety, please consider contacting the confidential 24-hour National Domestic Violence Hotline at 1-800-799-SAFE (7233), or 1-800-787-3224 (TTY), or 1-855-812-1001 (video phone, only for deaf callers).

**23a** Were you or a member of your family a victim of abuse or domestic violence by the person on line 6? (Abuse includes physical, psychological, sexual, emotional, or financial abuse, and can include the abuser making you afraid to disagree with him or her or causing you to fear for your safety.)

- ☐ Yes. Complete the questions below. We will put a code on your separate account. This will enable us to respond appropriately and be sensitive to your situation.

**Note:** We will remove the code from your account if you request it. If you do not want us to put the code on your account check here. ☐

- ☐ No. If "No," go to Part VI.

**Your current name****Your social security number**

**Note:** If you need more room to write your answer for any question, attach more pages. Be sure to write your name and social security number on the top of all pages you attach.

- b** Describe the abuse you experienced, including approximately when it began and how it may have affected you, your children, or other members of your family. Explain how this abuse affected your ability to question the reporting of items on your tax return or the payment of the tax due on your return. Please attach a written statement, if needed.
- 
- 
- 

- c** Are you afraid of the person listed on line 6?

☐ Yes ☐ No

- d** Does the person listed on line 6 pose a danger to you, your children, or other members of your family?

☐ Yes ☐ No

**To properly evaluate your claim, please attach copies of documentation you may have, for example:**

- Protection and/or restraining order;
- Police reports;
- Medical records, including those of therapists or counselors;
- Doctor's report or letter;
- Injury photographs;
- A statement from someone who was a victim of or witnessed the abuse or the results of the abuse; and
- Any other documentation you may have.

## **Part VI Additional information**

- 24** Please provide any other information you want us to consider from the years that this form is about or any other years during which you filed a joint return with the person you listed on line 6 in determining whether it would be unfair to hold you liable for the tax.
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## **Part VII Tell us if you would like a refund.**

- 25** By checking this box and signing this form, you are indicating that you would like a refund if you qualify for relief and if you already paid the tax. See instructions . . . . . ☐

**Reminder:** Please attach the **complete copy** of any document requested or that you otherwise believe will support your request for innocent spouse relief.

### **Caution:**

By signing this form, you understand that, by law, we must contact the person on line 6. See instructions for details.

## **Sign Here**

Under penalties of perjury, I declare that I have examined this form and any accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Keep a copy  
for your  
records.

Your signature

Date

**Paid  
Preparer  
Use Only**

Print/Type preparer's name

Preparer's signature

Date

Check ☐ if  
self-employed

PTIN

Firm's name ▶

Firm's EIN ▶

Firm's address ▶

Phone no.