

Form CT-8857 Instructions

General Instructions

Purpose

Use **Form CT-8857, Request for Innocent Spouse Relief (And Separation of Liability and Equitable Relief)**, to request relief from liability for tax, plus related penalties and interest, for which you believe only your spouse or former spouse should be held liable. You must have filed a joint return for the year(s) for which you are requesting relief. DRS will evaluate your request and tell you if you qualify.

You may be allowed one or more of these three types of relief:

- Separation of liability;
- Innocent spouse relief; **or**
- Equitable relief.

Any reference in this document to a spouse also refers to a party to a civil union recognized under Connecticut law.

Definitions

Underpayment of Tax

An **underpayment** is tax that is properly shown on your return but has not been paid.

Example: Beth and Jack filed a joint return that properly reflects their income and credits, but showed an unpaid balance of \$400. Beth and Jack are getting divorced. Beth gave Jack \$200 and Jack promised to pay the full \$400, but did not. Beth and Jack are both liable for the \$400 tax not paid (underpayment).

Understatement of Tax

An **understatement of tax**, or deficiency, is the difference between the total amount of tax that DRS determines should have been shown on the Connecticut income tax return and the amount actually shown on the return.

Example: Mary and Matt filed a joint return showing \$400 tax due which they fully paid. DRS later audits their return and finds \$4,000 of income that Mary earned but did not report. This understatement results in an additional \$180 in tax. Mary and Matt are both liable for the additional tax (understatement) due to Mary's unreported income.

Joint and Several Liability

Generally, joint and several liability applies to all joint returns. This means both you and your spouse or former spouse are jointly and individually responsible for any underpayment of tax plus any understatement of tax that may become due later. This is true even if a divorce decree states your former spouse is responsible for any amounts due on previously-filed joint returns.

If you have both an underpayment and understatement of tax, you may have to request different types of relief. If you have an underpayment of tax, you may only request equitable relief. Complete Parts III and IV to see which type(s) of relief you can request for the understatement of tax.

Statement to Attach

You **must attach a statement** to Form CT-8857 explaining why you qualify for relief. Complete the statement using the best information you have available. Include your name and Social Security Number (SSN) on the statement.

If you are requesting relief for more than one taxable year, you only need to file one Form CT-8857. However, you must include a separate statement for each year. Clearly indicate in the statement(s) the type(s) of relief you are requesting for each year. You must provide certain information for each type of relief you are requesting. See the Specific Instructions for Parts III, IV, and V for details on the information to include with your statement(s).

Generally, DRS will request additional information from you. You can help the processing of your request for relief by completing and attaching federal Form 12510, *Questionnaire for Requesting Spouse*. To get federal Form 12510, go to www.irs.gov or call 1-800-TAX-FORM (1-800-829-3676).

When to File

File Form CT-8857 as soon as you become aware of a Connecticut income tax liability for which you believe only your spouse or former spouse should be held liable. You may become aware of a liability if:

- DRS has examined your tax return and is proposing an understatement of tax; **or**
- DRS has sent you a notice.

You must file Form CT-8857 no later than two years after DRS first began collection activity against you.

Examples of attempts to collect the tax from you are garnishment of your wages or applying your income tax refund to the tax due.

Where to File

Do not file Form CT-8857 with your tax return.

Mail Form CT-8857 and your statement (if applicable) to:

Department of Revenue Services
Collections and Enforcement - Quality Control Unit
25 Sigourney Street
Hartford CT 06106-5032

Specific Instructions

Part I

Enter your current name. If your current name is different from your name as shown on your tax return for any year for which you are requesting relief, enter it in parentheses after your current name. For example, enter "Jane Maple (formerly Jane Oak)."

Spousal Notification

The law requires DRS to inform your spouse or former spouse of the request for relief from liability. DRS is also required to allow your spouse or former spouse to provide information that may assist in determining the amount of relief from liability. DRS will **not** provide information to your spouse or former spouse that could infringe on your privacy. DRS will not provide your new name, address, information about your employer, phone number, or any other information that does not relate to making a determination about your request for relief from liability.

Part II

Line 1 – Enter the taxable year(s) for which you have an understatement or underpayment. **Do not** enter any year(s) that DRS used your refund to offset the understatement or underpayment.

Example: You were due a refund for taxable year 2004 on your single return but DRS applied the refund to unpaid joint taxes for taxable year 2003. You enter "2003" on Line 1.

Line 2 – Enter the current name and SSN of the person to whom you were married as of the end of the taxable year(s) listed on Line 1. If the name of the person shown on that year's tax return(s) is different from the current name, enter it in parentheses after the current name. For example, enter "Jane Maple (formerly Jane Oak)." Also enter the current home address and daytime telephone number if you know it.

Part III – Separation of Liability

You may request separation of liability for any understatement of tax shown on the joint return(s) you filed with the person listed on Line 2 if that person died or you and that person:

- Are divorced;
- Are legally separated; **or**
- Have lived apart at all times during the 12-month period prior to the date you file Form CT-8857.

Separation of liability applies only to amounts owed that are not paid. DRS will not issue you a refund of amounts already paid.

How to Request Separation of Liability

Attach a statement to Form CT- 8857 that shows the total amount of the understatement of tax. For each item that resulted in an understatement of tax, explain whether the item is attributable to you, the person listed on Line 2, or both of you. For example, unreported income earned by the person listed on Line 2 would be allocated to that person.

Exception: If, at the time you signed the joint return, you knew about any item that resulted in part or all of the understatement, then your request will not apply to that part of the understatement.

Part IV – Innocent Spouse Relief

You may be allowed innocent spouse relief if **all** of the following apply:

- You filed a joint return for the year(s) entered on Line 1;
- There is an understatement of tax on the return(s) due to erroneous items of the person listed on Line 2;
- You can show that when you signed the return(s) you did not know and had no reason to know the understatement of tax existed (or the extent to which the understatement existed); **and**
- Taking into account all the facts and circumstances, it would be unfair to hold you liable for the understatement of tax.

Erroneous Items

Any income, deduction, or credit is an erroneous item if it is omitted from or incorrectly reported on the joint return.

Partial Innocent Spouse Relief

If you knew about any of the erroneous items, but did not know the full extent of the item(s), you may be allowed relief for the part of the understatement you did not know about. Explain in your statement attached to Form CT- 8857 how much you knew and why you did not know, and had no reason to know, the full extent of the item(s).

How to Request Innocent Spouse Relief

Attach a statement to Form CT- 8857 of why you believe you qualify. The statement will vary depending on your circumstances, but should include **all** of the following:

- The amount of the understatement of tax for which you are liable and are seeking relief;
- The amount and a detailed description of each erroneous item, including why you had no reason to know about the item or the extent to which you knew about the item; **and**
- Why you believe it would be unfair to hold you liable for the understatement of tax.

Part V – Equitable Relief

You may be allowed equitable relief if, taking into account all the facts and circumstances, DRS determines you should not be held liable for any understatement or underpayment of tax.

Equitable relief generally applies only to:

- An underpayment of tax; **or**
- Part or all of any understatement of tax that does not qualify for both separation of liability and innocent spouse relief.

You should request separation of liability or innocent spouse relief for any understatement of tax if you are eligible. DRS will consider equitable relief for any understatement of tax if it determines innocent spouse relief and separation of liability do not apply.

How to Request Equitable Relief

Attach an explanation to Form CT-8857 of why you believe it would be unfair to hold you liable for the tax instead of the person listed on Line 2. If you are attaching a statement for separation of liability or innocent spouse relief, only include any additional information you believe supports your request for equitable relief.

For More Information: Call DRS during business hours, Monday through Friday:

- **1-800-382-9463** (Connecticut calls outside the Greater Hartford calling area only), **or**
- **860-297-5962** (from anywhere)

TTY, TDD, and Text Telephone users only may transmit inquiries anytime by calling 860-297-4911

Forms and Publications: Forms and publications are available anytime by:

- **Internet:** Visit the DRS Web site at **www.ct.gov/DRS** to preview and download forms and publications;
- **Telephone:** Call **1-800-382-9463** (Connecticut calls outside the Greater Hartford calling area only) and select **Option 2** from a touch-tone phone or **860-297-4753** (from anywhere).