

General Instructions

How To Request Relief

File an election packet to request relief for an outstanding liability from the PA Department of Revenue for the following three types of relief:

- Understatement of Tax
- Separation of Liability
- Income Allocation

The election packet includes the following forms:

- PA 8857, Request for Relief from Joint Liability
- PA 12507, Innocent Spouse Statement
- PA 12510, Questionnaire for Spousal Relief from Joint Liability for Requesting Spouse
- REV-488, Statement of Financial Condition for Individuals.

You may request relief for more than one tax year in a single election packet.

You must fully complete all of the above forms for a valid election packet.

Additional Information

See **PA Pub. 971**, Relief from Joint Liability (Innocent Spouse Relief), for more details. You can get PA Pub. 971 by downloading from the Department's home page at **www.revenue.state.pa.us** or contact the office of Taxpayers' Rights Advocate at 717-772-9347.

When To File

You should file a complete election packet as soon as you become aware of a tax liability for which you believe only your spouse or former spouse should be held liable. You must file the packet no later than 2 years after the date the Department first attempted to collect the tax from you. Some example of attempts that may start the 2 year period are:

- The mailing of a notice that the Department plans to intercept your Federal Income Tax refund.
- The issuance of a writ of execution.

The issuance of a billing notice, a preassessment notice, or an assessment notice is not a collection activity.

TIP: You should not file an election packet until the tax for which relief is requested may no longer be appealed. Your appeal rights must have expired before you request relief from joint liability.

Where To File

Do not file Form PA 8857 with your tax return or fax it to the Department. Instead, mail it to:

**PA Department of Revenue
Office of Taxpayers' Rights Advocate
Lobby, Strawberry Square
Harrisburg, PA 17128**

Definitions

Understatement of Tax

An understatement of tax is generally the difference between the total amount of tax that you should have reported on your return and the amount of tax that you actually reported. For example, you reported total tax of \$2,500 on your 2005 return. The Department reviewed your 2005 return and determined that the total tax is \$3,000. You have a \$500 understatement of tax.

Underpayment of Tax

An underpayment of tax is the amount of tax you reported on your return, but you have not paid. For example, your joint 2008 return shows that you and your spouse owe \$5,000. You pay \$2,000 with the return. You have an underpayment of \$3,000.

Joint and Several Liability

Joint and several liability applies to all joint returns. This means that both you and your spouse (or former spouse) are liable for any underpayment of tax plus any understatement of tax that may become due later. This is true even if a divorce decree states that your former spouse will be responsible for any amounts due on previously filed joint returns.

Appeal Rights

Review of request for relief for an understatement of tax or for relief by separation of liability. You may appeal the Taxpayers' Rights Advocate's determination of relief for an understatement of tax due to an erroneous statement and relief by separation of liability by filing a petition with the Board of Finance and Revenue within ninety days of the mailing date of the notice of final determination.

Taxpayers' Rights Advocate fails to act. You may also file a petition with the Board of Finance and Revenue requesting it to review your request for relief if the Department has not provided you a final determination within six months from the date you filed a complete election packet.

Review of request for relief by income allocation. There is no right to appeal the Taxpayers' Rights Advocate's denial of a request for relief by income allocation.

Specific Instructions

Foreign address. Enter the information in the following order: city, province or state, and country. Follow the country's practice for entering the postal code. **Do not** abbreviate the country name.

Part I

Spousal Notification

The Department is required to inform the non-electing spouse (your spouse or former spouse) of your request for relief from liability. There are no exceptions even for victims of spousal abuse or domestic abuse.

The Department will contact the non-electing spouse and allow him or her to provide information that may assist in determining your eligibility for relief from joint liability. The Department will also inform the non-electing spouse of its preliminary and final determinations regarding your request for relief. However, to protect your privacy, the Department will not provide information to the non-electing spouse that could infringe on your privacy. The Department will not provide your new name, address, information about your employer, phone number, or any other information that does not relate to a determination about your request for relief from liability.

Victim of Domestic Abuse

If you have been a victim of domestic abuse and fear that filing an election for relief from joint liability will result in retaliation, check the box in Part 1. Checking this box will alert the Department to the sensitivity of your situation. It does not grant you special consideration for purposes of the Department's determination regarding your request for relief. However, evidence of abuses are factors that the Department may consider for certain types of relief. You should fully explain to the Department your concerns in the statement that you attach to your election.

Line 2

Enter the current name and SSN of your spouse (or former spouse) with whom you filed a joint return for the tax 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 address and phone number if you know it.

P.O. Box. Enter the box number instead of the street address **only** if you do not know the street address.

Part II—Separation of Liability

You may elect separation of liability relief if you meet one of the following conditions at the time you file the election packet:

- You are divorced, widowed, or legally separated from the individual with whom you filed the joint return.
- You and the individual with whom you filed the joint return have not been members of the same household at any time during the 12-month period preceding the date the election packet is filed.

Requesting Separation of Liability

Use PA 12507, Innocent Spouse Statement, to explain why you believe you qualify for separation of liability relief. Show 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. See PA Pub. 971 for more details.

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 III—Understatement of Tax Relief

You may be relieved of joint liability for an understatement of tax and the related interest and penalties if all the following conditions are met:

1. You filed a joint return which has an understatement of tax due to an erroneous item of your spouse;
2. You establish that at the time you signed the joint return you did not know and had no reason to know that there was an understatement of tax. (If you establish that you were the victim of domestic abuse prior to the time you signed your joint return, and that, as a result of the prior abuse, you did not challenge the treatment of any items on the return for fear of your spouse's retaliation, you can qualify for relief even if you had actual knowledge of your spouse's understatement of tax.); and
3. 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, credit, or reported basis 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 not 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 the PA 12507 you attach to Form PA 8857 how much you knew about the erroneous item, and the reason(s) you did not know and had no reason to know the full extent of the understatement despite your having knowledge or the erroneous items.

Requesting Relief by Understatement of Tax

Use PA 12507 to explain why you believe you qualify for understatement of tax relief. 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 detailed description of each erroneous item, including why you had no reason to know about the item, or if you did know of the item, the reason you had only partial knowledge, and the extent to which you did know about the item; and

- Why you believe it would be unfair to hold you liable for the understatement of tax.

Part IV—Income Allocation Relief

You may qualify for relief by income allocation if you are jointly liable for an underpayment of tax, and the underpaid tax is not attributable to income that would have been on your separate return if you were to have filed a separate return. In addition, you may qualify for relief by income allocation if you failed to qualify for relief from joint liability for an erroneous item through your election for relief from an understatement of tax or your election for relief by separation of liability.

Requesting Relief by Income Allocation

Use PA 12507 to explain 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 PA 12507 for separation of liability or understatement of tax relief, only include any additional information you believe supports your request for income allocation relief.

QUESTIONNAIRE FOR RELIEF FROM JOINT LIABILITY FOR REQUESTING SPOUSE

(Used in conjunction with Form PA 8857, Request for Relief from Joint Liability)

Your Name:

Your Social Security Number:

Purpose for this information

Depending on the nature of your claim for relief for joint liability, we must evaluate many factors including:

- Your marital status;
- Whether the items that created the liability are yours;
- Whether you believed that your spouse paid, or was going to pay, the tax due that you reported on your return;
- Your current financial situation; and
- Considering all the facts, is it fair to hold you responsible for the liability?

The Department recognizes that some of the questions below involve sensitive subjects; however, the Department needs this information to evaluate the circumstances of your case and properly determine whether you qualify for relief.

Instructions

The questionnaire is divided into 5 parts. All parts may not apply to you. Please read the instructions for each part to see if it applies to you. If so, answer all the questions for that part. If more space is needed, you may attach additional pages.

Attach any documents you have that support your answers.

PART 1 - Complete this part for **all** requests for relief (understatement of tax, separation of liability or, income allocation relief).

- 1a. Are you crediting an overpayment to a prior year tax liability or the execution of a lien against your property requesting a refund for any payment **you made individually**? Yes No
- 1b. Identify the date and amount of these payments. Provide any documentation you may have to prove you made these payments such as correspondence from the Department and copies of the front and back of cancelled checks or money orders.

2. What is the current marital status between you and the (ex)spouse with whom you filed the joint return(s) for the year(s) you are requesting relief?

- Married and living together
- Married, living apart Provide date (month, day, year) _____/_____/_____
- Legally Separated Provide date (month, day, year) _____/_____/_____
- Divorced Provide date (month, day, year) _____/_____/_____
- Widowed Provide date (month, day, year) _____/_____/_____

(Enclose a complete copy of the separation agreement, divorce decree, or death certificate. If you are still married but living apart, provide documentation to verify the date of your separation, such as copies of your lease agreement or utility bills in your individual name.)

3. Why did you file a joint return(s) instead of your own separate return(s)?

4. What was your involvement in the preparation of the return(s)?

5. Did you review the tax return(s) before signing? Yes No
If no, explain why not.

6. If your (ex)spouse was self employed, did you assist him/her with the business? Yes No
If yes, what were your responsibilities?

7a. During the year(s) in question, did you have **your own separate** bank account? Yes No
If yes, indicate the type of account(s), the financial institution and account number(s).

7b. What funds were deposited to the account(s)?

7c. What bills were paid out of the account(s)?

8a. During the year(s) in question, did you and your (ex)spouse have any **joint** bank accounts? Yes No
If yes, indicate the type of account(s), the financial institution and account number(s).

8b. What access did you have to the account(s)?

8c. What funds were deposited to the account(s)?

8d. Who made the deposits?

8e. What bills were paid out of the account(s)?

8f. Who wrote the checks?

8g. Did you review the monthly bank statement?
 Yes No

8h. Did you balance the checkbook to the bank statement?
 Yes No

9. Did you pick up and open the household mail?
 Yes No

10. Identify any periods of separation between you and your (ex)spouse during the year(s) in question.

11. If you were abused by your (ex)spouse during the year(s) at issue, please describe the nature and extent of the abuse. Provide documentation such as police reports, doctor's statements, or an affidavit from someone aware of the abuse.

12. What was your highest level of education during the year(s) you are requesting relief?
Note any business or tax-related courses you completed by that time.

13. What was your (ex)spouse's highest level of education during the year(s) you are requesting relief?
Note any business or tax-related courses he or she completed by that time.

14. What business experience did you have during the year(s) you are requesting relief?

15. Have any assets been transferred from your (ex)spouse to you? Yes No
If yes, list the assets and the date of transfer. Explain why they were transferred to you.

16. How was the extra money from the unpaid taxes spent?

17. Explain any other factors you feel should be considered for granting relief.

PART 2

1a. At the time you signed the return(s) did you know there was a balance due? Yes No

1b. If no, explain why you did not know.

1c. If yes, explain when and how you thought it would be paid.

2. Describe what funds were available at the time to pay the balance due.

3. At the time you signed the return, did you know about any financial problems you and your (ex)spouse were having such as a bankruptcy, high credit card debt, or difficulty in paying monthly living expenses? Yes No
If yes, please describe them.

4. After the return(s) was filed, what efforts were made by you and your (ex)spouse to pay the tax?

PART 3

1a. At the time of signing, were you concerned about any item(s) omitted from or reported on the return(s)?

Yes No

1b. If yes, which item(s) did you inquire about and what responses did you get?

1c. At that time, describe how much you knew about each of the incorrect item(s).

2. At that time of signing, if you were not concerned about any item(s), when and how did you first become aware of the incorrect item(s)?

PART 4

We need the information below to determine whether paying the tax liability would leave you unable to meet basic living expenses. We base this on your **current** average monthly **household** income and expenses. Household includes a spouse or another person living with you.

Average Monthly Household Income and Expenses

Total number of people in household	
Total number of dependents in household	

Income	Amount	Expenses	Amount
* Wages		Rent or Mortgage	
* Pensions		Food	
* Unemployment		Utilities	
* Social Security		Telephone	
* State, Local and Federal Support		Auto Payments	
Alimony		Auto Insurance	
Child Support		Auto - Gasoline & Repairs	
Self-Employment		Medical - Insurance & Other	
Rental Income		Life Insurance	
Interest and Dividends		Clothing	
Other		Child Care	
*Net of withholding for taxes		Public Transportation	
		Other	

PART 5

Under penalties of perjury, I declare that I have examined this statement and to the best of my knowledge, it is true, correct, and complete.

Signature:	Date signed:	Daytime phone number:	Best time to call:
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For Privacy Act Information, please refer to Notice 609 or Form 8857.



Statement of Financial Condition for Individuals

(If additional space is needed, attach separate sheet)

1. Taxpayer's name(s) and address(es) <i>(including county)</i>	2. Home phone number	3. Marital status
	4. Social Security Number(s)	a. Taxpayer b. Spouse

SECTION I – EMPLOYMENT INFORMATION

5. Taxpayer's employer of business (name and address) or	6. Business phone number	7. Occupation
	8. Paydays	9. <i>(Check appropriate box)</i> <input type="checkbox"/> Wage earner <input type="checkbox"/> Partner <input type="checkbox"/> Sole Proprietor
10. Spouse's employer or business (name and address) or	11. Business phone number	12. Occupation
	13. Paydays	14. <i>(Check appropriate box)</i> <input type="checkbox"/> Wage earner <input type="checkbox"/> Partner <input type="checkbox"/> Sole Proprietor

SECTION II – PERSONAL INFORMATION

15. Name, address and telephone number of next of kin or other reference	16. Age and relationship of dependents (exclude husband and wife) living in your household	17. Number of exemptions claimed on Form W-4
18. Date of birth	a. Taxpayer	b. Spouse

SECTION III – GENERAL FINANCIAL INFORMATION

19. Latest PA income tax return filed <i>(tax year)</i>	20. Adjusted gross income on return
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21. Bank accounts *(include Savings and Loans, Credit Unions, IRA and KEOGH accounts, Certificates of Deposit, etc.)*

Name of Institutions	Address	Type of Account	Account Number	Balance
				\$
Total (Enter in Item 28)				\$

22. Bank charge cards, lines of credit, etc.

Type of Account or Card	Name and Address of Financial Institution	Monthly Payment	Credit Limit	Amount Owed	Credit Available
		\$	\$	\$	\$
Total (Enter in Item 34)		\$	\$	\$	\$

23. Safe deposit boxes rented or accessed *(List all locations, box numbers and contents)*

24. Real Property <i>(Brief description and type of ownership)</i>	Address <i>(Include county and state)</i>
a.	
b.	
c.	

25. Life Insurance <i>(Name of Company)</i>	Policy Number	Type	Face Value	Available Loan Value
			\$	\$

SECTION III – GENERAL FINANCIAL INFORMATION (continued)

26. Additional Information (Court proceedings, bankruptcies, repossessions, recent transfers of assets for less than full value, anticipated increases in income, condition of health, etc., include information on trusts, estates, retirement plans, etc., on which you are a participant or beneficiary)

SECTION IV – ASSET AND LIABILITY ANALYSIS

(a) Asset or Liability	(b) Description	(c) Current Market Value	(d) Liabilities Balance Due	(e) Amount of Monthly Payment
27. Cash		\$		
28. Bank accounts				
29. Stocks, bonds, investments			\$	\$
30. Cash or loan value of insurance				
31. Vehicles (model, year, license)	a.			
	b.			
	c.			
32. Real property	a.			
	b.			
	c.			
33. Other assets	a.			
	b.			
	c.			
34. Bank revolving credit				
35. Other liabilities (include judgements, notes and other charge accounts)	a.			
	b.			
	c.			
	d.			
36. Federal taxes owed				
37. State taxes owed				
38. TOTALS		\$	\$	\$

SECTION V – INCOME AND EXPENSE ANALYSIS

(a) Income			(b) Necessary Living Expenses	
Source	Gross	Net		
			47. Rent/House payment	\$
			48. Groceries	\$
39. Wage/Salary (<i>Taxpayer</i>)	\$	\$	49. Allowable installment Payments	\$
40. Wages/Salary (<i>Spouse</i>)			50. Utilities	\$
41. Interest - Dividends			51. Transportation	\$
42. Net Business Income (<i>from Form REV-484 or REV-488</i>)			52. Insurance	\$
43. Rental Income			53. Medical	\$
44. Pension (<i>Taxpayer</i>) Source:			54. Estimated tax payments (<i>federal-state</i>)	\$
45. Pension (<i>Spouse</i>) Source:			55. Other expenses (<i>specify</i>)	\$
46. TOTAL	\$	\$	56. TOTAL	\$
Item 40 should be completed if you are married even if your spouse is not liable for the tax. This information is necessary in order for the Department of Revenue to calculate household income and expenses.			57. Net difference (<i>income less necessary living expenses</i>)	\$

CERTIFICATION – Under penalties of perjury, I declare that to the best of my knowledge and belief this statement of assets, liabilities and other information is true, correct and complete.

58. Your Signature	59. Spouse, Attorney or Accountant Signature (POA Attached)	60. Date
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