

## Relief by Court Order

Alternatively, you may qualify for revision of joint and several tax liability by a court order if you obtained a divorce decree/termination of registered domestic partnership from your spouse/RDP and the court issued an order relieving you of some or all of the unpaid tax due from a joint tax liability. To qualify for court-ordered revision, the following items must be included in the court order:

- A specific reference to the amount of California state income tax liabilities for each tax year for which relief is granted.
- The amount of the total unpaid tax liability each taxpayer is liable for paying.

If you seek court-ordered relief and your joint gross income exceeds \$150,000 or you owe more than \$7,500 for the tax year(s) for which you seek relief, you must send us a letter to request a *Tax Revision Clearance Certificate* (TRCC) prior to seeking court-ordered relief. In your letter, include your name, address, telephone number, and social security number. You must provide the TRCC to the court. After the court issues its order, provide FTB with a copy.

Please note that the court is limited in the relief that it can provide:

- The court cannot relieve you of your responsibility to pay taxes on your earned income.
- Generally, the court cannot provide relief for taxes already paid.

This brochure provides basic information to determine if you qualify for innocent joint filer relief. For detailed information on California laws, rules, and guidelines associated with each category of relief, refer to the contact information below.

To request innocent joint filer relief, mail or fax FTB 705, *Request for Innocent Joint Filer Relief*, and supporting documents (if any) to:

STATE OF CALIFORNIA  
INNOCENT SPOUSE UNIT MS A452  
**FRANCHISE TAX BOARD**  
PO BOX 2966  
RANCHO CORDOVA CA 95741-2966  
Fax: 916.845.0479

For more information about the Innocent Joint Filer program, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **innocent joint filer**. To download an application, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **705**.

For more information about relief by court order, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **relief by court order**.

For assistance, call 916.845.7072.

# Innocent Joint Filer Relief

Relief from Paying California  
Income Taxes

## Are You Eligible?



Visit our website at [ftb.ca.gov](http://ftb.ca.gov).

## Innocent Joint Filer Relief<sup>1</sup>

When you file a California joint tax return, you and your spouse/registered domestic partner (RDP) both assume responsibility for paying the taxes, applicable penalties, and interest. However, if you meet certain legal requirements, you may qualify for relief from payment of all or part of the tax liability. We will work with you to determine if you meet the requirements for relief.

## Traditional Innocent Joint Filer Relief

You may qualify for relief from assessed additional tax, penalties, and interest if you meet **all** of the following conditions:

- You filed a valid joint tax return.
- Your spouse's/RDP's error caused the additional tax.
- At the time you signed the joint tax return, you were unaware of the items that resulted in the additional tax.
- Taking into account all of the facts and circumstances, it would be unfair to hold you liable for the tax liability.
- You submitted your completed FTB 705, *Request for Innocent Joint Filer Relief*, to us no later than two years after the date we began involuntary collection activities against you.

## Relief by Separate Allocation of Liability

Under this type of relief, we determine which spouse/RDP is liable for the assessed additional tax, penalties, and interest. If you satisfy all requirements, we assign liability for the additional tax to the liable spouse/RDP, as if

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<sup>1</sup> Innocent joint filer applies to requests involving marriages and registered domestic partnerships.

the taxpayers had filed separate tax returns. You may qualify for this type of relief if you filed a joint tax return and meet **all** of the following conditions:

- You were divorced or legally separated from your spouse/RDP, terminated your registered domestic partnership, or lived apart from your spouse/RDP for 12 months prior to making your request for relief.
- The additional tax we assessed is attributable in part or in full to your spouse/RDP.
- You had no knowledge of the item(s) that created the tax liability, when you signed the joint tax return.
- You submitted your completed FTB 705, *Request for Innocent Joint Filer Relief*, to us no later than two years after the date we began involuntary collection activities against you.

## Equitable Relief

If you filed a joint tax return and do not qualify for traditional innocent joint filer relief or relief by separate allocation of liability, you may be entitled to equitable relief under certain conditions. Equitable relief applies to self-assessed unpaid taxes reported on your joint tax return or any assessed additional taxes. Some of the factors we consider include:

- Your current marital/RDP status.
- Documented proof that you experienced abuse from your spouse/RDP at the time or shortly before you filed the joint tax return.
- Proof that when you signed the joint tax return, you did not know and had no reason to know that the tax liability would not be paid.

- In the case of assessed additional tax, you were unaware of the understatement of tax when you signed the joint tax return.
- Your current financial situation and your ability to pay the tax liability.
- Whether a divorce decree, termination of registered domestic partnership, or other legally binding agreement, identifies one taxpayer as legally liable to pay the tax liability.
- Whether you received a significant benefit from the unpaid income tax liability or tax deficiency.
- Your compliance with income tax laws in later years.

## Internal Revenue Service (IRS) Relief

If the IRS granted you innocent spouse relief, we may grant you relief from self-assessed unpaid state tax liabilities or an assessed deficiency of additional taxes, if you meet all the following conditions:

- You filed a valid joint tax return.
- You requested innocent joint filer relief for state tax liabilities, by submitting a completed FTB 705, *Request for Innocent Joint Filer Relief*.
- All applicable facts and circumstances are the same for the federal and state income tax liabilities.
- You provide a copy of the final IRS determination letter showing that the IRS granted full or partial relief.
- You were granted relief by the IRS for the same tax year(s).