New York State Department of Taxation and Finance

Request for Innocent Spouse Relief (and Separation of Liability and Equitable Relief)

IT-285 (9/12)

Important: Do not file this form with your income tax return. See *Where to file* on page 3.

Your first name and middle initial	Your last name			Your social security number
Mailing address (number and street or rural route)				Apartment number
City, village, or post office	State	ZIP code	Daytime phone number ( )	Evening phone number ( )

Important notes:

– **Do not** file this form if all or part of your share of a joint refund was (or is expected to be) applied against your spouse's past-due debt (such as child support). Instead, use Form IT-280, *Nonobligated Spouse Allocation*, to request that your share of the joint refund be refunded to you.

– By law, the Tax Department must contact the person who was your spouse during the years for which you want relief. There are no exceptions, even for victims of spousal abuse or domestic violence. Your personal information (such as your current name, address, and employer) will be protected. However, if you petition the Division of Tax Appeals, your personal information may be released. See instructions.

1 Are you requesting relief from a liability that resulted from a jointly filed return? Mark an ***X*** in the appropriate box.

☐ **Yes.** Go to line 2. ☐ **No. Stop.** You cannot file Form IT-285.

2 Enter the tax year(s) for which you are requesting relief from liability for tax. (Form IT-285 can be used only for tax years beginning on or after January 1, 1999. For relief from a joint liability for prior years, see *General information* in the instructions.) .... **2** ________

Note: If the answers are not the same for each of the following questions for all tax years for which you are filing this form, submit an explanation (be sure to include your name and social security number).

3 Explain why you believe you qualify for relief. Submit a statement and supporting documentation *(see instructions)*.

4 Information, if known, about **your spouse (or former spouse)** to whom you were married at the end of the year(s) on line 2.

First name and middle initial	Last name			Social security number
Mailing address (number and street or rural route)				Apartment number
City, village, or post office	State	ZIP code	Daytime phone number ( )	Evening phone number ( )

5 What is the current marital status between you and the person on line 4?

☐ Married and still living together

☐ Married and living apart since *(mm-dd-yyyy)* .... ☐

☐ Widowed since *(mm-dd-yyyy)*
(Include a photocopy of the death certificate.) .... ☐

☐ Legally separated since *(mm-dd-yyyy)*
(Include a photocopy of your entire separation agreement.) .... ☐

☐ Divorced since *(mm-dd-yyyy)*
(Include 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.

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6 For the years for which you want relief, how were you involved in the household finances? Mark all that apply.

☐ You knew the person on line 4 had separate accounts.

☐ You had joint accounts but you had limited use of them or did not use them. Explain below.

☐ You used joint accounts. You made deposits, paid bills, balanced the checkbook, or reviewed the monthly bank statements.

☐ You made decisions about how money was spent. For example, you paid bills or made decisions about household purchases.

☐ You were not involved in handling money for the household.

☐ Other: ____________________

Explain anything else you want to tell us about your household finances: ____________________

____

7 How were you involved with preparing your tax return(s)? Mark all that apply and explain, if necessary.

☐ You filled out or helped fill out the returns.

☐ You gathered receipts and canceled checks.

☐ You gave tax documents (such as federal Forms W-2, 1099, etc.) to the person who prepared the returns.

☐ You reviewed the returns before they were signed.

☐ You did not review the returns before they were signed. Explain below.

☐ You were not involved in preparing the returns.

☐ Other: ____________________

Explain: ____________________

8 When you signed your return(s), did you know any amounts were due to New York State?

☐ Yes ☐ No If ***Yes***, explain when and how you thought the amount of tax reported on your return would be paid: ________

____

9 When you signed your return(s), did you know or have reason to know that the return(s) you signed were incorrect or missing any information?

☐ Yes ☐ No. Explain: ____________________

10a Did you file federal Form 8857, *Request for Innocent Spouse Relief*, with the IRS for the same tax year(s) and with the same missing or incorrect items on your return(s) for which you are filing this form?

☐ Yes. Include a copy of your Form 8857 and continue with question 10b.

☐ No. Continue with the *Allocation of items between spouses* schedule.

10b Did you receive a final determination from the IRS granting you *Innocent Spouse* relief under IRC section 6015(b)?

Note: Other types of relief can be granted by the IRS. If you are unsure which type of relief you were granted, mark the ***No*** box or contact the IRS to determine the type of relief you were granted.

☐ Yes. Include a copy of the final determination. Sign the form and see *Where to file* on page 3. Do not complete the *Allocation of items between spouses* schedule.

☐ No. Complete the *Allocation of items between spouses* schedule.

Allocation of items between spouses

If filing for more than one tax year, complete a separate schedule for each year. Include copies of all federal Forms W-2, all federal schedules, and copies of any notices from the New York State Tax Department.

If you do not have specific information to complete the allocation schedule, mark an *X* in the box and see instructions. ☐

Allocated items	**a –** Allocated to you	**b –** Allocated to your spouse or former spouse	**c –** Total of column a plus column b
11 Enter the tax year covered by this schedule ____________			
12 Wages			
13 Interest and dividends			
14 Business income			
15 All other income. Identify the type and amount below. ____________ ____________ ____________ **Line 15 total**			
16 Federal adjustments to income. Allocate separate adjustments, such as an IRA deduction, to the spouse to whom they belong			
17 New York adjustments to income. Allocate separate adjustments, such as 414(h) contributions and/or pension exclusions, to the spouse to whom they belong			
18a Estimated tax payments *(see instructions)*			
b Payment made with extension Form IT-370 or using the online application			
c Payments made with return			
d Payments made on assessments (bills)			
19 Income tax withheld. Allocate New York State/New York City/Yonkers income tax withheld to each spouse as shown on federal Forms W-2. Be sure to submit copies of these forms with this Form IT-285			

Where to file

Generally, you should send this form to: **NYS Department of Taxation and Finance, PO Box 5120, Albany NY 12205-0120**. But, if you are meeting with a Department of Taxation and Finance employee, or you received a notice of deficiency, or you are using a private delivery service, see instructions. If you would like the Tax Department to correspond with your representative, you must complete and submit a power of attorney.

▼ Paid preparer must complete *(see instr.)* **▼**

Preparer's signature	Date
	Preparer's NYTPRIN
Firm's name *(or yours, if self-employed)*	Preparer's PTIN or SSN
Address	Employer identification number
	Mark an *X* if self-employed ☐
E-mail:	

▼ Taxpayer sign here ▼

Your signature

Date

Daytime phone number
(   )

E-mail:

Keep a copy of this form for your records.

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