

The Newsletter



FAUCHER LAW

TAX & BANKRUPTCY

When a Former Spouse is on the Hook for their Ex's Back Taxes...

Innocent Spouse Relief and the IRS

A newly-divorced woman is in shock: the settlement says her ex pays their back taxes, but the IRS is threatening to levy on her meager bank account. She divorced him in part because of financial immaturity – like the tax bill he ran up and *hid from her*. What better reason for Innocent Spouse Relief than having one spouse hide finances from another?

Signed A Joint Return? You're on the Hook.

Unfortunately, it's hard to get Innocent Spouse Relief. Why? If a spouse signed the joint return (as each must for the tax return to be accepted), then **the IRS has the legal right to collect 100 percent of taxes owed from either spouse**. Yup, the IRS can collect 100 percent of the taxes owed from just ONE spouse, even the innocent spouse, or even if that spouse has lower income post-divorce.

Can an Ex Avoid Their Share of Taxes Owed?

There are two ways for an ex-spouse to avoid paying their share of a joint tax liability. First, an ex can file bankruptcy, discharging *their* obligation to pay, but leaving their former spouse on the hook for all that's owed. Second, if an ex stops working or has no income or assets to seize, then the IRS will go after the other, earning spouse more aggressively. Seem unfair? Yup. What's the IRS position on this inequity? Too bad - even if your spouse hid financial truths from you. After all, **your signature on the return is an oath that everything on the return is correct**. The fact that

you relied on your dishonest ex isn't the IRS's doing. It assumes people old enough to be married are also old enough to assume responsibility for their financial lives.

What If Your Ex Agreed to Pay Back the Taxes?

Too bad: the IRS wasn't a party to your divorce. **The IRS wasn't at the negotiating table, and it didn't sign the contract, so it doesn't care if your ex fails to uphold a divorce agreement that is between ONLY you two**. Also, the IRS needs to ensure that the divorcing couple isn't conspiring to somehow evade tax through the divorce decree. What the IRS *does* care about is enforcing its legal right to collect up to 100% of taxes owed from either spouse. It's harsh, but that's the way it is.

What Can Innocent Spouses Do?

First, the IRS will give a financially struggling spouse more time if they have a good argument, such as not having known about back taxes being owed. IRS agents are usually sympathetic to a woman starting over after divorce. But this doesn't get someone out of owing the taxes – it just gives them more time to pay. Second, some people qualify for bankruptcy. This process allows a person to escape the taxes because they simply can't pay.

When Does IRS Grant Innocent Spouse Relief?

Innocent Spouse Relief can be obtained when three hard-to-meet conditions are in place. First, there was income not on the original return that the "bad" spouse failed to report (usually income found during audit by the IRS after the "good" spouse signed). Second, the "good" spouse can prove s/he didn't know about this income. Third, the "good" spouse didn't benefit from the unreported income. This is key: even if you can prove you didn't know about hidden income, the IRS looks at whether you benefited. For example, **if a couple lived a \$1 million lifestyle on \$100,000 of reported income, the IRS will say the "good" spouse should have known something was wrong and, since she benefited from the income, she's responsible for taxes on it**. Confused? Call me.

INSIDE STORIES

- Innocent Spouse Relief Success Stories
- Welcome Our New Intern!
- Sebastian on When Innocent Spouse Works
- Thai Chicken Salad Recipe

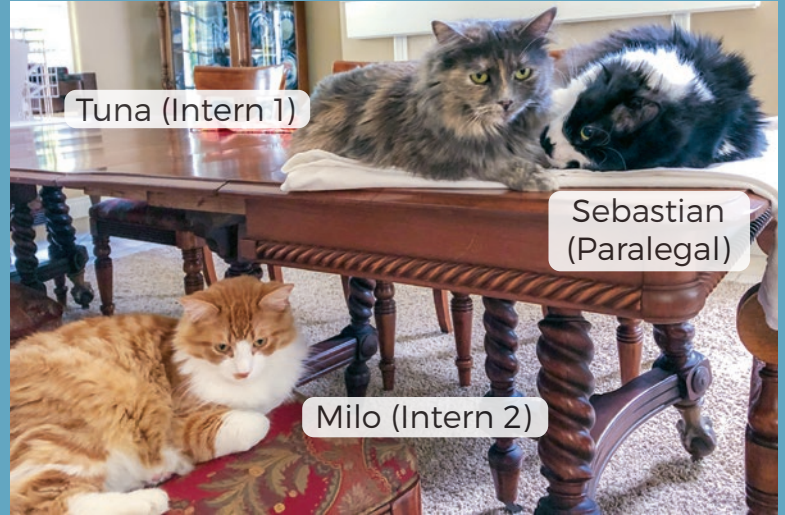
New Faucher Law Intern!

Sebastian's annoyed: there's a new Intern to train. But John's delighted. He and Karen fostered Milo for the local animal shelter last spring. Milo was fascinated with the law, begging for John to explain the intricacies of when tax debt can be discharged in bankruptcy. This pleased John enormously: such raw interest and talent.

Done deal – Milo is our second feline intern! Is Intern #1's fur ruffled by the competition? Not all at: Tuna remains cool as a cat. And, no, Milo won't be getting his own comic strip – that remains the exclusive preserve of *Sebastian the Feline Paralegal*.



Left: Break time at the "water cooler" in the office. Right: Milo and John keeping up with the latest trades--an educated intern is a sharp intern, after all!



Innocent Spouse Success Stories

Worth a Thought...

"Success is its own reward, but failure is a great teacher, too, and not to be feared."

-Supreme Court Justice Sonia Sotomayor

Ex-wife wanted to pay tax debt when she shouldn't. My client had gotten into income and payroll tax problems with his corporation before dissolving it. Since he and his wife were also splitting up, she was angry when she got IRS notices about unpaid taxes a few years later. Nonetheless, she wanted to pay the corporate taxes. This was unnecessary because neither spouse owed the taxes; only the corporation did, and it was gone. I informed the IRS of this, attaching the final bank account statement for the corporation and a copy of the corporation's suspension by the California Secretary of State. Ten days later, the IRS closed the case and neither spouse owed any portion of the \$30,000 they feared they were on the hook for.

Wife really didn't know or benefit. Another client diverted checks intended for his firm, cashed them, and purchased cocaine and the kind attentions of prostitutes. He sobered up and his wife remained with him. I told the IRS they should not go after her separate property to satisfy the unreported part of their joint tax debt. The IRS agreed, because she didn't benefit from the income he spent on drugs and prostitutes, and she had no idea he was diverting some of his income for this purpose.



Spicy Thai Chicken Salad

Thanks to my friend Edie (drawn below) for this low-calorie recipe that's **gluten-free and can be made with tofu rather than chicken for vegetarians & vegans**. It's great during the hot months because only the rice and chicken need to be cooked, and can be eaten at room temperature.



1 lbs skinless, boneless chicken breasts	½ cup unseasoned rice vinegar
½ head napa cabbage, thinly sliced	¼ cup olive oil
¼ head red cabbage, thinly sliced	1-2 TBS hot chili oil
½ red onion, thinly sliced	3 TBS tamari or gluten-free soy sauce
1/2 bunch cilantro, finely chopped	
1 cup rice	1 clove garlic, finely minced

Instructions:

- Prep Chicken: Add chicken thighs or breasts (whole) to a pot of boiling water, and cook for 4 minutes. Remove pot from heat, put lid on pot, and let pot stand with chicken in hot water for 15-20 minutes, while you make rest of salad ingredients. Slice chicken into bit-sized pieces before serving.
- Prep rice according to package directions (which vary on how much water to use).
- Prep Salad Dressing: Whisk together rice vinegar, tamari, chili oil (begin with 1 TBS and add more if you prefer spicier/hotter food), olive oil and garlic. Dressing separates, so whisk again when ready to use.
- Prep Salad: Toss napa and red cabbages, onion and cilantro in a bowl.
- Assembly: Layer ingredients in following order: rice, salad, chicken. Drizzle with dressing.

Serves 2-3



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WELCOME TO FAUCHER LAW

John D. Faucher worked for 10 years as an IRS trial attorney and has been in private practice since 2008. He and his team speak the legal language. They know the **tax and bankruptcy systems** and can help you get the best result. Have other legal issues? Call us. We'll find the lawyer who's right for you, your friends, or family.

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Adding (Financial) Insult to (Emotional) Injury... **Why IRS Is Stingy With Innocent Spouse Relief**



The emotional trauma of divorce is bad enough. But it's often supplemented by financial trauma. For example, what happens when the IRS comes after you for tax debt you didn't know about because your former spouse hid financial shenanigans? In this issue of *The Newsletter* I explain why it's difficult to get **Innocent Spouse Relief** from the IRS. But I also provide a **success story** where I got a woman out of paying for tax debt incurred by her ex. Also inside, I **welcome Faucher Law's "mewest" Intern**, and offer a **Thai Chicken salad recipe**. Finally, Sebastian, my Feline Paralegal, and I look at the conditions to qualify for Innocent Spouse Relief through our "comic" lens.