

LAW OFFICES OF SANFORD I. MILLAR

MILLARLAWOFFICES.COM

Innocent Spouse Relief Has Been Made Easier

February 12, 2012

In Notice 2012-8 the [IRS](#) has improved the possibility of “Innocent Spouse” claims for relief from tax liability being granted. The new factors that the [IRS](#) will take into consideration are actual abuse or lack of financial control. The actual abuse in the form of physical intimidation is best proven through police reports of domestic violence or opinions of treating professionals. The more interesting grounds for relief are lack of financial control.

The lack of financial control test, as in the physical abuse test, is subject to proof based upon facts and circumstances. For some taxpayers the evidence will be both personal and cultural. Example: A cultural upbringing in which a spouse is expected to obey and respect another may be a foundational element for lack of control. Other factors, of course can be important, but the social, religious and immigration history may also be important. Recent immigration from a culturally submissive environment may be very important to the claim of innocent spouse relief.

The marital status at the time of the claim is also important. If the parties are legally separated, or divorced, this factor will also be important. Marital separation agreements should therefore be crafted with the potential for tax claims.

Notice 2012-8 should be read carefully by all professionals who advise couples on marital separation issues, including lawyers, accountants and valuation experts as well as parties who may benefit from the claiming that they are “innocent spouses”.

Law Offices of Sanford I. Millar

Office: 310-556-3007

Fax: 310-556-3094

Address: 1801 Avenue of the Stars, Suite 600
Los Angeles, CA. 90067

Email: smillar@millarlaw.net

www.millarlawoffices.com