

# Request for Innocent Spouse Relief and Separation of Liability and Equitable Relief

# Arizona Form 200

## Phone Numbers

If you have questions, please call one of the following help numbers:

Phoenix (602) 255-3381  
Nationwide, toll-free (800) 352-4090  
Form orders (602) 542-4260  
Forms by Fax (602) 542-3756

### Recorded Tax Information

Phoenix (602) 542-1991  
Other Arizona areas, toll-free (800) 845-8192

### Hearing impaired TDD user

Phoenix (602) 542-4021  
Other Arizona areas, toll-free (800) 397-0256

You may also visit our web site at:

[www.revenue.state.az.us](http://www.revenue.state.az.us)

## General Information

A change in Arizona law made it easier to be relieved from liability of tax related to your spouse (or former spouse). You can now request innocent spouse relief for an understatement of tax no matter how small the amount. If you are divorced, separated, or no longer living with your spouse, you may request separation of liability between you and your spouse (or former spouse) for an understatement of tax on a joint return. Also, the department will consider your request for equitable relief in situations where it would be unfair to hold you liable for tax that should be paid only by your spouse (or former spouse).

The new law applies to any tax liability arising after August 6, 1999, or any tax liability that was unpaid as of that date.

### Purpose of Form

Use Form 200 to request relief from liability for tax, plus related penalties and interest, that you think only your spouse (or former spouse) should pay.

You may be allowed one or more of these three types of relief:

- Separation of liability (see page 2)
- Innocent spouse relief (see page 2), or
- Equitable relief (see page 3).

To be eligible for relief, you must have filed a joint return for the year(s) for which you are requesting relief.

Attach a statement to Form 200 explaining why you qualify for relief. Complete the statement using the best information you have available. The department will ask you for additional information if needed, or you may provide additional information at any time. The department will evaluate your request and tell you if you qualify.

**You do not need to figure the tax, interest, and penalties that qualify for relief. The department will figure these amounts for you.**

**NOTE: Do not** use Form 200 to make an injured spouse claim. You are an injured spouse if your share of an overpayment shown on your joint return was, or is expected to be, applied against your spouse's past-due state taxes, child support or spousal maintenance, or debts owed to another Arizona State agency. If you are an injured spouse, you may be entitled to receive a refund of your share of the overpayment. For information concerning amounts held for past-due state taxes, call one of the phone numbers listed on this page. For information concerning amounts held to pay child support or spousal maintenance, contact the Arizona Department of Economic Security. For information about amounts held for another Arizona State agency, contact that agency.

### When and Where to File

File Form 200 as soon as you become aware of an unpaid tax liability that you think your spouse (or former spouse) should pay. The following are some of the ways you may become aware of such a liability.

- The department has examined your tax return.
- The department sends you a notice.

**Do not** file Form 200 with your tax return. File Form 200 as instructed below.

If:	Then file Form 200 with:
You are meeting with a department employee for an examination, appeal, or collection	That department employee
You received a department notice of deficiency	The department employee named in the notice. Attach a copy of the notice.
None of the situations above apply to you	Arizona Department of Revenue P.O. Box 29081 Phoenix, AZ 85038-9081

### 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 (tax shown on a return but not paid) 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. Form 200 allows you to request that joint and several liability not apply to part or all of any unpaid tax.

### Understatement of Tax

An understatement of tax, or deficiency is the difference between the total amount of tax that the department determines should have been shown on the return, and the amount that actually was shown on the return.

### Underpayment of Tax

An underpayment of tax is tax that is properly shown on the return, but not paid.

### Community Property Laws

You must generally follow community property laws when filing a tax return if you are married. Generally, community property laws require you to allocate community income and expenses equally between both spouses. However, community property laws are not

taken into account in determining whether an item belongs to you or your spouse (or former spouse) for purposes of requesting any relief from liability.

### Line 1

If you want to request relief for more than one tax year, you need to file only one Form 200. If you are filing Form 200 for multiple years, clearly indicate in the statement(s) you attach to Form 200, the type(s) of relief you are requesting for each year.

### Line 2 – Information About Your Spouse (or Former Spouse)

Enter the current name and social security number (SSN) of the person to whom you were married at the end of the year(s) listed on line 1. If the name of your spouse (or former spouse) shown on that year's tax return(s) is different from the current name, enter it in parentheses after the current name. For example: Joan Oak (formerly Joan Pine). Enter the current address and phone number if you know it.

**NOTE:** The department must inform your spouse (or former spouse) if you request relief. The department must also allow your spouse (or former spouse) to participate in the determination of the amount of relief from liability.

### Line 3 – Separation of Liability

If you filed a joint return for the year(s) entered on line 1, you may be able to separate liability for any **understatement** of tax on the return(s) between you and your spouse (or former spouse). You can request to do so if you and that person;

- Are no longer married, or
- Are legally separated, or
- Have lived apart at all times during the 12-month period prior to the date you file Form 200.

**NOTE:** A widow or widower is considered no longer married.

Even if you meet the above requirements, the department will not grant your request for separation of liability if any of the following applies.

- You and your spouse transferred assets as part of a fraudulent scheme.
- At the time you signed your joint return (unless signed under duress), you had actual knowledge that items giving rise to the deficiency and allocable to your spouse were incorrect.
- You transferred property to your spouse (or former spouse) just to avoid tax or the payment of tax.

### Requesting Separation of Liability

Check the box on line 3 and attach a statement to Form 200. 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, your spouse (or former spouse), or both of you. For example, unreported income earned by your spouse (or former spouse), would be allocated to that person. An overstated deduction of home mortgage interest on a home you owned jointly that was paid from a joint checking account would generally be allocated equally between both of you.

### Line 4 – Innocent Spouse Relief

If you qualify for separation of liability, you may not need to request innocent spouse relief. The amount of relief allowed by requesting separation of liability will usually be equal to or greater than the amount allowed by requesting innocent spouse relief. However, you may still request innocent spouse relief if you wish.

You may be allowed innocent spouse relief if all of the following apply.

- You filed a joint return for the year(s) entered on line 1.
- There is an **understatement** of tax on the return(s) that is due to erroneous items of your spouse (or former spouse).
- You can show that when you signed the return(s) you did not know and had no reason to know that the understatement of tax existed (or the extent to which the understatement existed).
- Taking into account all the facts and circumstances, it would be unfair to hold you liable for the understatement of tax.

### Erroneous Items

Erroneous items are either of the following.

1. **Unreported income.** This is any gross income item received by your spouse that is not reported.
2. **Incorrect deduction, credit, or basis.** This is any improper deduction, credit, or property basis claimed by your spouse.

The following are examples of erroneous items.

1. The expense for which the deduction was taken was never made. For example, your spouse deducted \$10,000 of advertising expenses on federal schedule C, but never paid for any advertising.
2. The expense does not qualify as a deductible expense. For example, your spouse claimed a business fee deduction of \$10,000 that was for the payment of state fines; fines are not deductible.
3. No legal argument can be made to support the deductibility of the expense. For example, your spouse claimed \$4,000 for security costs related to a home office, which were actually veterinary and food costs for your family's two dogs.

Any income, deduction, or credit is an erroneous item if:

- It is omitted from or incorrectly reported on the joint return,
- It is attributable to your spouse (or former spouse).
- It results in an understatement of tax, **and**
- You did not know and had no reason to know either about the understatement or the extent of it (see **Partial Innocent Spouse Relief** next).

### 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 part of the understatement. Explain in the statement you attach to Form 200, how much you knew and why you did not know, and had no reason to know, the full extent of the item(s).

## Requesting Innocent Spouse Relief

Check the box on line 4 and attach a statement to Form 200 explaining why you believe you qualify. The statement will vary depending on your circumstances, but should include the following:

- The amount and a detailed description of each erroneous item, including why you had no reason to know about the item or the extent to which you knew about the item,
- The amount of the understatement of tax for which you are liable and are seeking relief, **and**
- Why you believe it would be unfair to hold you liable for the understatement of tax.

## Line 5 – Equitable Relief

You may be allowed equitable relief if, taking into account all the facts and circumstances, it would be unfair to hold you liable for any understatement or underpayment of tax that should be paid only by your spouse (or former spouse).

You can be allowed equitable relief only for an underpayment of tax, or part or all of any understatement of tax that does not qualify for either separation of liability or innocent spouse relief. You should request separation of liability or innocent spouse relief for any understatement of tax, unless you are sure you are not eligible. The department will consider equitable relief if it determines that innocent spouse relief and separation of liability do not apply.

## Requesting Equitable Relief

Attach an explanation of why you believe it would be unfair to hold **you** liable for the tax instead of your spouse (or former spouse). If you are attaching a statement for separation of liability or innocent spouse relief, include only any additional information you believe supports your request for equitable relief.