

## Senate Finance Committee Press Release: To Give Innocent Spouses More Time to File for Tax Relief

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### BAUCUS, HARKIN, SHERROD BROWN CALL ON IRS TO GIVE INNOCENT SPOUSES MORE TIME TO FILE FOR TAX RELIEF

#### *Senators Ask IRS Commissioner to Re-evaluate Two-Year Limit to Request Tax Relief*

**Washington, DC** - Senate Finance Committee Chairman Max Baucus (D-Mont.), Senator Tom Harkin (D-Iowa) and Senator Sherrod Brown (D-Ohio) today called on the Internal Revenue Service (IRS) to conduct a review of the regulations limiting the time innocent spouses have to file for equitable relief from joint tax liability. Innocent spouse provisions excuse a spouse from liability for unpaid taxes on a joint return if he or she did not know or have reason to know of the unpaid taxes when the return was signed. The Senators assert that providing only two years to file for this relief runs counter to the spirit of equitable relief, which was designed to act as a “safety-valve” for innocent spouses, which takes into account all the facts and circumstances of each case.

**“Taxpayers in Montana and across the country shouldn’t be forced to pay a tax or penalty they’re not responsible for,”** said Baucus. **“We made important changes to protect innocent taxpayers seeking relief from their spouses’ liability to ensure fair and equitable treatment. Now, we are concerned this two-year limitation denies relief to the very taxpayers the law was designed to help - the innocent spouses unaware of these IRS collection activities because of intimidation or deception by their spouse. We must reevaluate these limits so all taxpayers are treated justly and have time to file for tax relief they deserve.”**

**“In many cases, either because of intimidation or deception on the part of the joint filer, an innocent spouse is left holding the bag,”** Harkin said. **“Allowing the truly innocent spouse the right to file for protection without an arbitrary deadline is crucial since, in many cases, they simply do not know what was done until the IRS informs them.”**

**“A change in the Innocent Spouse Rule of the tax code would ensure that victims of domestic violence and others are not further penalized and victimized,”** said Brown. **“This is about equitable relief and protecting responsible taxpayers from irresponsible ones.”**

As a Finance Committee member, Baucus helped to make it easier for innocent spouses to obtain relief from joint tax liability as part of the IRS Restructuring and Reform Act of 1998. The law Baucus helped pass allows innocent spouses to request equitable relief from liability for a joint deficiency or unpaid tax arising from a joint return at any time during the 10-year collection statute of limitations. However, a Treasury regulation and IRS published guidance have fixed a deadline for filing for equitable relief claims of two years from the date of IRS’s first collection activity.

The full text of the Senators’ letter to Commissioner Shulman follows.

April 18, 2011

The Honorable Douglas H. Shulman

Commissioner

Internal Revenue Service  
1111 Constitution Ave., NW  
Washington, DC 20224

Dear Commissioner Shulman:

As you know, Congress substantially overhauled the “innocent spouse” rules of the Internal Revenue Code as part of the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998. In revising these provisions, Congress sought to make it easier for innocent spouses to obtain relief from joint tax liability. In addition to granting relief under two specific circumstances, the new innocent spouse rules allowed the IRS to grant “equitable relief” if, considering all the facts and circumstances, it would be inequitable to hold a spouse liable for a joint deficiency or unpaid tax arising from a joint return. The IRS Restructuring and Reform Act did not set a time limit within which taxpayers must request equitable relief, thereby implying that taxpayers may request equitable relief at any time during the 10-year collection statute of limitations. However, Treasury regulation (Treas. Reg §1.6015-5) and IRS published guidance (Revenue Procedures 2000-15 and 2003-61) issued a decade ago fixed a deadline for filing for equitable relief claims of two years from the date of IRS's first collection activity.

The two-year limitation on claims for equitable relief prevents innocent spouses from receiving the relief they deserve. Each year, thousands of innocent spouses who would otherwise qualify for equitable relief are denied relief because of the regulatory two-year limitation. In many cases, the two-year limitation serves to deny equitable relief to the very taxpayers the law was designed to reach, such as innocent spouses unaware of IRS collection activities because of intimidation or deception on the part of the joint filer.

We recognize that the two-year rule was not promulgated under your leadership, but we are writing to ask you to conduct a thorough review of the regulation and guidance imposing the two-year rule on equitable relief under § 6015(f) and § 66 of the Internal Revenue Code. In the time since the regulation and guidance were originally issued, it appears that the two-year rule has been running counter to the spirit of the equitable relief provision as a “safety-valve” for innocent spouses that takes into account all the facts and circumstances of each case. While we understand litigation on the issue is pending, we urge you to make appropriate changes as soon as possible to resolve uncertainty in the law and ensure taxpayers are receiving fair and equitable treatment.

Sincerely,

Senator Max Baucus

Brown

Senator Sherrod

Senator Tom Harkin