

# Looking Out For Your Legal Rights®

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*Cuáles Son Sus  
Derechos Legales*

La versión en español la encontrará al reverso.

## NEW TAX INFORMATION Stimulus Rebates and Alternative Rapid Anticipation Loans

### 2008 Federal Stimulus Rebates

**STARTING IN MAY**, the Treasury will begin sending economic stimulus payments to more than 130 million households. In order to be eligible for a 2008 tax rebate, you must

- File a 2007 federal income tax return; and
- Have a Social Security number, not an Individual Taxpayer Identification Number (ITIN). (An ITIN is a tax processing number issued by the Internal Revenue Service to individuals who are required to have a U.S. taxpayer identification number but who do not have, and are not eligible to obtain, a Social Security number from the Social Security Administration.)

### *How much will I get?*

- If you are single and your 2007 adjusted gross income is less than \$75,000, you will receive a rebate of up to \$600. If you are married and file a 2007 joint return with adjusted gross income less than \$150,000, you will receive a rebate of up to \$1,200.

*Continued on page 2*

## Beware of E-Mail and Telephone Scams!

The IRS is warning taxpayers to be aware of e-mail and telephone scams on advance payment checks that use the IRS name as a lure. The goal of the scams is to trick you into giving personal information, such as identification numbers and bank account numbers, to scammers who can then use the information to commit identity theft. Remember, the IRS *never* sends unsolicited e-mails about tax matters to you. The IRS also *never* calls you for information about your tax situation. If you are concerned that you may have been a victim of a scam, you may send the suspicious e-mail to [phishing@irs.gov](mailto:phishing@irs.gov) or contact the IRS at 1-800-829-1040.

### New Tax Information

*continued from page 1*

For each child you can claim as a dependent child, you will receive an additional \$300.

- If you earned at least \$3,000 in income from Social Security and veteran's disability, you will receive \$300 if you are single and \$600 if you are married.
- If your only income is from Supplemental Security Income (SSI), you will not qualify for a rebate check.

### *When will I get my rebate?*

The IRS is planning to start mailing rebates to taxpayers in early May. As long as you file your return on time (on or before April 15, 2008), you should receive your rebate by mid-July.

### *What if I owe money from another year?*

The rebates will be subject to collection. This means that if you owe the IRS money for another year, the rebate will be used to pay past-due taxes first. The IRS will send you whatever is left.

*continued on page 3*

## Looking Out For Your Legal Rights®

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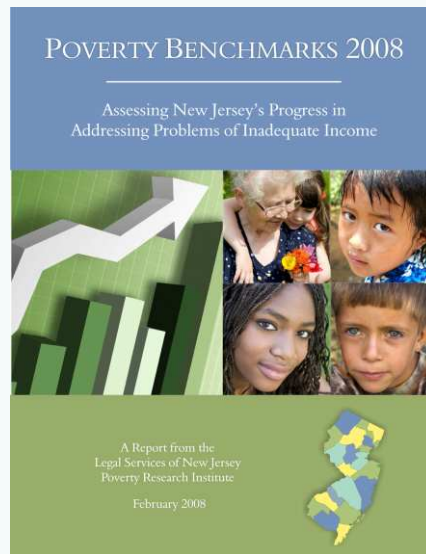
## Alternative Rapid Anticipation Loans

The Alternative Rapid Anticipation Loan law was recently passed in New Jersey. The law cracks down on companies that charge too much for tax preparation and high-interest Refund Anticipation Loans (RALs). Tax preparers can no longer insist that a taxpayer enter into a

RAL. If taxpayers do want to enter into a RAL, they must be told about the preparation, filing, and loan fees. This new law also permits free tax preparation centers, known as VITA sites, to offer Alternative Refund Anticipation Loans (A-RALs) to low-income New Jersey taxpayers without high fees or interest charges. □

## Report Highlights Poverty in New Jersey

A NEW REPORT, “Poverty Benchmarks 2008: Assessing New Jersey’s Progress in Addressing Problems of Inadequate Income,” was released by Legal Services of New Jersey in February. The report updates data on poverty in the state and evaluates many important trends. The report also evaluates anti-poverty programs and their success in fighting poverty in New Jersey. A major finding is that many in New Jersey face even greater income shortages this year than in the past. Challenges include increasing difficulties in affording housing and health insurance and a rise in subprime loan delinquencies, bankruptcy filings, and home foreclosures. The report addresses the size of the welfare grant level, which has not been increased since 1987, and the low enrollment figures for people who are eligible in programs such as the Food Stamp and the School Breakfast Programs.



The Poverty Benchmarks report outlines a number of recommendations for improving the situation, including the following:

- Increasing the minimum wage;
- Introducing paid family leave so that workers can take care of newborn or ill family members without losing their income;
- Expanding outreach to enroll eligible people in anti-poverty programs;
- Increasing cash assistance for welfare recipients;
- Providing universal health coverage; and
- Increasing funding to expand affordable housing across the state and not just in low-income areas.

The PRI report can be found on Legal Services of New Jersey’s Web site at [www.lsnj.org/PovResrch.htm](http://www.lsnj.org/PovResrch.htm).

*By Shivi Prasad, Researcher/Policy Analyst, Legal Services of New Jersey Poverty Research Institute*

# Joint Tax Returns and Innocent Spouse Relief

**DID YOU KNOW** that, even if you are married, you do not have to file the same tax return as your spouse? You can choose to file jointly or separately. There are pros and cons to each method of filing, depending on your individual circumstances. (See the table on page 6 for more information on each option.)

## Filing a joint return

Filing a joint tax return means more than just signing your name at the bottom of the return. If you sign and file a joint return with your spouse and the information is false or wrong, the Internal Revenue Service (IRS) has the right to collect the tax that is due from either of you. The IRS does not have to try to figure out who made the mistake or who failed to report all income. The government may take legal action against both of you together or against either of you individually. Even if you have divorced or separated since you filed your tax return, the IRS has the right to choose how it will try to collect the taxes. The IRS operates according to federal law and is

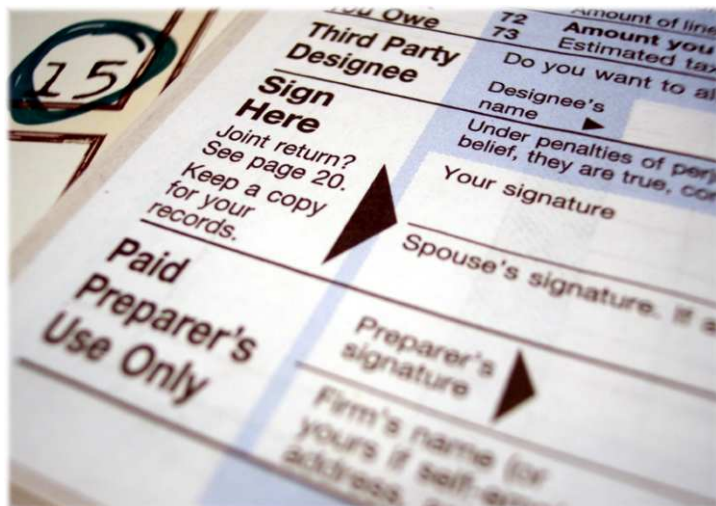
not bound to follow the orders of a state law divorce judgment stating that that one spouse must pay all the taxes. If you decide to file a joint tax return, it is clearly in your best interest to carefully review the return before you sign it, since you can be held liable for everything in it.

## What do I do if I've filed a joint return and am held responsible for my spouse's or former spouse's error?

There are three ways that you can be relieved from paying taxes if you believe you are not responsible for a mistake related to a joint return. In each situation, you must file an IRS Form 8857 as soon as you become aware of the mistake or problem. ***Form 8857 must be filed no later than two years after the date on which the IRS first attempts to collect the tax.***

## Option 1: Innocent Spouse Relief

The first way that you can be relieved from responsibility for paying taxes is by way of *innocent spouse relief*. To qualify for this relief, you must meet the following three conditions:



Filing a joint tax return means more than just signing your name at the bottom of the return. If you sign and file a joint return with your spouse and the information is false or wrong, the IRS has the right to collect the tax that is due from either of you.

- You must have filed a joint return. That return must contain an understatement of tax directly related to your spouse's (or former spouse's) unreported income, or your spouse's or former spouse's incorrect deductions or credits.
- You must show that, at the time you signed the return, you did not know and had no reason to know that there was an understatement of tax.
- You must show that, taking into account all the facts and circumstances, it would be unfair to hold you liable for the unpaid tax.

The IRS will consider all of the facts and circumstances of each case to determine whether it is unfair to hold you responsible. Some factors that the IRS considers are:

- Whether you benefited from the understatement;
- Whether your spouse, or former spouse, deserted you; and
- Whether you have been divorced or separated.

The IRS will not grant your request for innocent spouse relief if they discover proof that you and your spouse (or former spouse) transferred property to one another or a third party, such as a creditor, ex-spouse, or business partner, with the intent of defrauding the IRS.

### **Option 2: Relief by Separation of Liability**

The second way that you can be relieved of responsibility for paying taxes is called *relief by separation of liability*. To request relief by separation of liability,

you must have filed a joint return, and you must prove that:

- You are widowed, divorced, or legally separated from the spouse with whom the joint return was filed; and
- You were not a member of the same household as this spouse at any time during the 12-month period prior to the date the request for relief was filed.

Under this type of relief, the IRS holds each spouse responsible for a portion of the unpaid tax, depending on the facts of the individual situation. The relief discussed here will not apply to any part of the understatement if you knew about the mistakes on the tax return.

*Note: There is a domestic abuse exception.* Even if you knew about the errors on the tax return, you may still qualify for relief by separation of liability if you were the victim of domestic violence before signing the return, and if you did not challenge the information on the return because of fear of retaliation.

### **Option 3: Equitable Relief**

The third way that you can be relieved of the responsibility for paying taxes is by way of *equitable relief*. Equitable relief is intended to help people who do not qualify for either of the first two options. To qualify for equitable relief, you must meet *all* of the following conditions and prove that:

- You are not eligible for innocent spouse relief or relief by separation of liability.
- You and your spouse or former spouse did not transfer assets to

| TYPE OF RETURN                   | PROS   | CONS  |
|----------------------------------|--|---|
| <b>Married filing jointly</b>    | Lower tax rate   | Each spouse is responsible for the payment of the tax   |
|                                  | All income, deductions, and credits are reported on one return   | After you file the return, you cannot change to the filing status of married filing separately  |
|                                  |  | To get relief from payment of tax, interest, or penalties, you must apply for relief from the IRS   |
| <b>Married filing separately</b> | You are only responsible for the tax due on your income, and you are not obligated to pay tax on income your spouse earned | Higher tax rate   |
|                                  | After you file, you can change your mind and change your filing status to married filing jointly                           | You cannot take the credit for child and dependent care expenses  |
|                                  |  | You cannot take the Earned Income Tax Credit  |
|                                  |  | The child tax credit, retirement savings contribution credit, itemized deductions, and the deduction for personal exemption are all reduced |
|                                  |  | If your spouse itemizes deductions, you cannot claim the standard deduction   |

each other as part of a fraudulent scheme.

- Your spouse or former spouse did not transfer property to you to avoid the payment of tax.
- You did not file or fail to file a return with the intent to commit fraud.
- You did not pay the tax.
- Taking into account all the facts and circumstances, it would be unfair to hold you responsible for the unpaid tax.
- Your spouse or former spouse supplied the incorrect or incomplete information entered on the tax form.

### ***Where can I go for more help?***

The IRS can be very cynical when reviewing your claims for relief. For that reason, whenever possible, it is always best to use a professional when seeking tax relief. Legal Services of New Jersey's Tax Legal Assistance Project may be able to help you. Call LSNJ-LAW™, Legal Services of New Jersey's statewide, toll-free legal hotline, at 1-888-LSNJ-LAW (1-888-576-5529) and state that you need help with a tax situation. Hotline hours are Monday through Friday, 8:00 a.m. to 5:30 p.m. If you are not eligible for assistance from Legal Services, hotline staff will refer you to other possible resources. □

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*By Marcie Harrison, Senior Attorney, Legal Services of New Jersey Tax Legal Assistance Project*

# Warning to Immigrants: Beware of the Unauthorized Practice of Law by Notaries Public in New Jersey

THE APRIL 2007 AND January-February 2008 issues of *Looking Out* discussed the problems non-citizens have had with “notaries,” “notaries public,” or “immigration consultants.” These people have been giving bad and incorrect advice to non-citizens who are trying to obtain immigration benefits. They charge thousands of dollars to file immigration applications. Often they fail to file the applications, file false or fraudulent documents, or file applications for programs that do not exist or for which a person does not qualify. This can result in deportation and the loss of life savings. This article will explain who is authorized to help you with your immigration matter, what to do if you cannot afford an attorney, and how to avoid fraud.

## ***Who is authorized to help me with my immigration matter?***

Only licensed U.S. attorneys and accredited representatives are authorized and qualified to assist you with your immigration matter. In many Latin American countries, the Spanish word *notario publico* refers to a person with legal expertise, but this is not the case in this country. In the U.S., a notary pub-

lic *may not* give legal advice, prepare legal papers, or provide other legal services unless he or she is also a U.S.-licensed attorney or an accredited representative. You can find out if someone is licensed or accredited by contacting the bar association of the state where the person is licensed. You can also find a list of accredited representatives on the U.S. Department of Justice Web site at [www.usdoj.gov/eoir/statspub/raroster.htm](http://www.usdoj.gov/eoir/statspub/raroster.htm).

## ***What can I do if I can't afford a private attorney?***

If you cannot afford a private attorney, contact LSNJ-LAW™, Legal Services of New Jersey's statewide, toll-free legal hotline, at 1-888-LSNJ-LAW (1-888-576-5529). If you are eligible, you will be able to speak with a licensed attorney or an accredited representative about your immigration matter.

## ***What rights do I have?***

It is important for you to know that you have certain rights when a lawyer or accredited representative is representing you in your immigration matter.

- You have the right to a written contract, explaining the scope of representation and fees.



**Only licensed U.S. attorneys and accredited representatives are authorized and qualified to help you with your immigration matter.**

- You have the right to be kept informed about your case.
- You have the right to a complete copy of all forms or documents submitted in your case.
- You have the right to a financial accounting of your case, detailing the total costs, as well as receipts for payments submitted.

### ***How can I avoid being defrauded?***

The following are important tips to avoid being defrauded:

- Don't pay money to someone to refer you to a lawyer.
- Walk away if a lawyer does not have a license.
- Never sign an application that you cannot understand. If you do not understand English, bring someone you trust to translate for you.
- Never sign a blank application or an application that you know con-

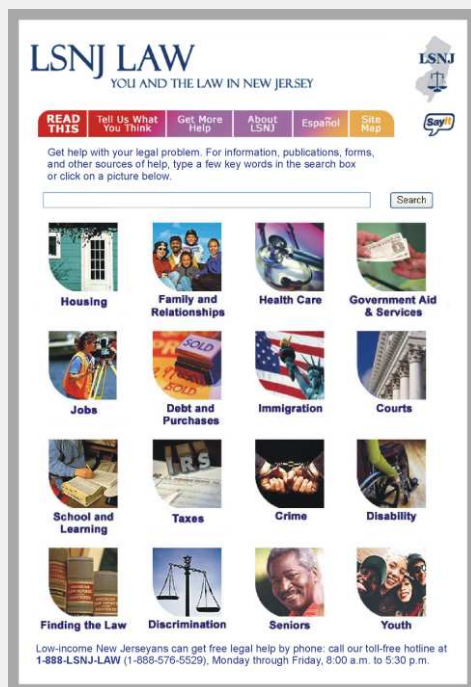
tains false information.

- Always ask for copies of anything that is filed for you along with proof of filing.
- Insist on a written contract that details all fees and expenses and make sure to get a receipt for every payment made.
- If the terms of the contract change, ask for the change in writing.
- Don't let anyone "find" you a sponsor or spouse to get a green card for you. This is illegal.

### ***What can I do if I am the victim of fraud by a notary public?***

If you have been the victim of fraud by a notary public in New Jersey, you can report the fraud to the Attorney General or the Division of Consumer Affairs by calling 1-800-375-5283, or by e-mailing the Division of Consumer Affairs at: [askconsumeraffairs@lps.state.nj.us](mailto:askconsumeraffairs@lps.state.nj.us).

*By Rachel Salazar, Staff Attorney, Legal Services of New Jersey Immigration Representation Project*



## **www.LSNJLAW.org**

**A source of legal information, publications, forms, resource directories, benefits calculators, and much more**

Legal Services of New Jersey's Web site, [www.LSNJLAW.org](http://www.LSNJLAW.org), offers resources meant to address the civil legal needs of low-income people. The site can be helpful to people of all income levels. The site was designed for ease of use by people with little or no experience on the Internet. Using a search box or clicking their way through clearly outlined contents, people with civil legal problems or questions can find the answers they seek, or information on how to get those answers. Major topic areas include housing, health care, taxes, employment, immigration, education, seniors, and youth. Visit the site and take a look!

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- |   |           |
|---|-----------|
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| ☆ <i>Divorce in New Jersey—A Self-Help Guide</i>  | \$25/copy |
| ☆ <i>Tenants' Rights in New Jersey</i>  | \$12/copy |
| ☆ <i>Clearing Your Record—A six-step guide to expunging criminal records in New Jersey</i>              | \$15/copy |

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- ☆ *Termination of Parental Rights: A Handbook for Parents*
- ☆ *Domestic Violence: A Guide to the Legal Rights of Domestic Violence Victims in New Jersey*
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  - *Sanctions*
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  - *Domestic Violence*

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# Cuáles Son Sus Derechos Legales

Marzo 2008

Publicado por Los Servicios Legales de Nueva Jersey

Si declaran en conjunto con su cónyuge y la información es falsa o errónea, el IRS tiene el derecho de cobrarle el impuesto que deba de cualquiera de los dos ya que ambos firmaron.

*Looking Out  
For Your Legal Rights*

Flip issue over for the  
English edition of  
*Looking Out for Your  
Legal Rights.*

## La declaración de impuestos en conjunto y el alivio para el cónyuge inocente

¿SABÍA USTED QUE aún si está casado, no es necesario que presenta la misma declaración de impuestos que su cónyuge? Puede declararlo *en conjunto* o *por separado*. Existen ventajas y desventajas para ambos métodos que dependen de cada circunstancia. (Véase la tabla en la página 4 de este artículo para obtener más información sobre las diferentes opciones).

*continúa en la página 2*

***El boletín de educación jurídica para los habitantes de Nueva Jersey***

Legal Services of New Jersey  
P.O. Box 1357  
Edison, NJ 08818-1357

### Para presentar una declaración en conjunto

Presentar una declaración en conjunto va más allá de una firma al final de la declaración. Si declaran en conjunto con su cónyuge y la información es falsa o errónea, el IRS tiene el derecho de cobrarle el impuesto que deba de cualquiera de los dos ya que ambos firmaron. No es necesario que el IRS trate de averiguar quién fue el que cometió el error o a quién se le olvidó declarar todos los ingresos. Es posible que el gobierno inicie una acción jurídica en contra de ambos o de un cónyuge individualmente. Aún si se separaron o divorciaron, el IRS tiene el derecho de elegir la manera en la que cobrará los impuestos. El IRS no está obligado a obedecer la orden de divorcio que indica que uno de los cónyuges tienen que pagar los impuestos. Si decide presentar una declaración por conjunto, lo mejor que

pueda hacer es leer la declaración con cuidado antes de firmarla, ya que deberá responsabilizarse de todo el contenido.

### ¿Qué debo hacer si presenté una declaración en conjunto y ahora debo pagar las consecuencias de un error que cometió mi cónyuge o ex cónyuge?

Existen tres maneras en las que puede liberarse del pago de los impuestos si piensa que no es responsable de los errores en la declaración en conjunto. En cada situación, debe presentar el **Formulario 8857 del IRS** tan pronto como se entere del problema o error. El Formulario 8857 se debe llenar antes que se cumplan dos años desde la fecha en que el IRS trató de cobrar el impuesto por primera vez.

### Opción 1: Alivio para el cónyuge inocente

La primera manera de liberarse de las responsabilidades de pagar los

## Cuáles Son Sus Derechos Legales

### Con respecto a *Looking Out*

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### Suscripciones

La suscripción cuesta \$10 dólares por año.

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### Cambio de Dirección

Si se muda, envíenos su nueva dirección y una copia de la etiqueta pegada al último ejemplar de *Looking Out*.

### Comentarios

Si tiene alguna sugerencia o comentario con respecto a *Looking Out*, nos gustaría oírlo. Envíe toda correspondencia a:

Editor, *Looking Out*  
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P.O. Box 1357  
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[publicaciones@lsnj.org](mailto:publicaciones@lsnj.org)

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Una parte del costo de esta publicación se cubrió con la ayuda proporcionada por el fondo IOLTA del colegio de abogados de Nueva Jersey.

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impuestos es por medio del *alivio para el cónyuge inocente*. Debe caer bajo las siguientes condiciones para cumplir con los requisitos:

- Debió haber presentado una declaración por conjunto. En éste, deberá tener la descripción insuficiente del impuesto que se relaciona con el ingreso que no presentó su cónyuge (o ex-cónyuge) o con las deducciones o créditos incorrectos;
- Debe demostrar que cuando firmó la declaración, no sabía y tampoco tenía razón de que exista una descripción insuficiente en el impuesto; y
- Debe demostrar que, según los hechos y circunstancias, no sería justo que tenga que sufrir las consecuencias de los impuestos que no se pagaron.

El IRS tomará en cuenta los hechos y circunstancias de cada caso para determinar si es injusto que tenga que responsabilizarse de esto. Estos son los factores que el IRS toma en cuenta:

- Si sacó provecho de la descripción insuficiente;

**Si declaran en conjunto con su cónyuge y la información es falsa o errónea, el IRS tiene el derecho de cobrarle el impuesto que deba de cualquiera de los dos ya que ambos firmaron. No es necesario que el IRS trate de averiguar quién fue el que cometió el error o a quién se le olvido declarar todos los ingresos.**

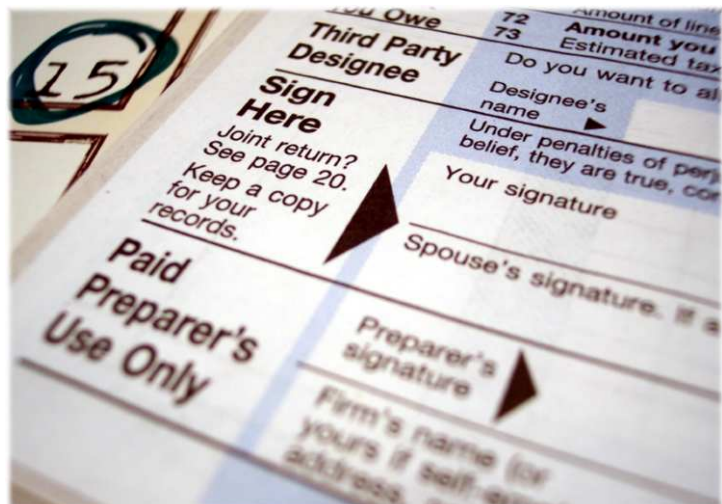
- Si su cónyuge o ex cónyuge le abandonó; y
- Si se ha separado o divorciado de su pareja.

El IRS no le otorgará esta petición del alivio para el cónyuge inocente, si logran demostrar que usted o su cónyuge (ex cónyuge) hicieron transferencias entre el uno al otro o con una tercera parte, por ejemplo un acreedor, ex cónyuge o socio comercial, con el propósito de estafarlos.

### **Opción 2: Alivio por medio de la separación de la responsabilidad del pago**

La primera manera de liberarse de las responsabilidades de pagar los impuestos es por medio del *Alivio por medio de la separación de la responsabilidad del pago*. Para solicitar el Alivio por medio de la separación de la responsabilidad del pago, debe haber presentado una declaración por conjunto y demostrar que:

- Es viudo, divorciado o separado ante la ley del cónyuge con el que presentó la declaración por conjunto; y



| LOS TIPOS DE DECLARACIONES                  | VENTAJAS  | DESVENTAJAS   |
|---|---|---|
| <b>Casado con una declaración conjunta</b>  | Impuesto con un índice bajo   | Cada cónyuge tiene la responsabilidad de pagar los impuestos  |
|   | Todos los ingresos, deducciones y créditos se deben presentar en una declaración  | Una vez que se presente la declaración, no podrá cambiar el estado de casado y con declaraciones separadas  |
|   |   | Para recibir la reducción de pagos tributarios, intereses o multas, debe solicitar algún alivio del IRS   |
| <b>Casado y con declaraciones separadas</b> | Sólo se debe responsabilizar por los impuestos que debe de su propio ingreso y es necesario que pague los impuestos del ingreso que gana su cónyuge | Impuesto con un índice más alto   |
|   | Después de presentar la declaración, puede cambiar de opinión y modificar el estado al de casado y con una declaración en conjunto                  | No podrá recibir el crédito por el hijo y los gastos en el cuidado del dependiente  |
|   |   | No podrá recibir el crédito tributario por ingreso del trabajo  |
|   |   | El crédito tributario por hijos, el de las contribuciones a los ahorros para la jubilación, deducciones detalladas y deducciones detalladas y por exenciones personales disminuirán |
|   |   | Si su cónyuge hace una lista detallada de las deducciones, no podrá reclamar la deducción estándar  |

- No perteneció al hogar del cónyuge en ningún momento en los últimos 12 meses antes de la fecha en la que se presentó la solicitud de la petición.

Bajo este tipo de alivio, el IRS responsabiliza a ambas personas por la parte del impuesto que no se pagó, que dependen según cada situación. Para esta reducción, no se tomará en cuenta las partes de la descripción insuficiente si supo acerca de estos errores en la declaración de impuestos.

**Nota: Existe una excepción para los casos de abuso doméstico.** Aún si supo acerca de los errores en las declaraciones de impuesto, puede cumplir con los requisitos para recibir el alivio por medio de la separación de la responsabilidad del pago si fue víctima de violencia doméstica antes de firmar la declaración y no pudo cuestionar la información por miedo de represalias.

### **Opción 3: Alivio equitativo**

La primera manera de liberarse de las responsabilidades de pagar los

impuestos es por medio del *alivio equitativo*. El alivio equitativo se hizo para las personas que no cumplen con los requisitos de las dos primeras opciones. Para cumplir con los requisitos del alivio equitativo, debe cumplir con las siguientes condiciones y comprobar que:

- No cumple los requisitos para recibir el alivio para el cónyuge inocente ni el alivio por medio de la separación de la responsabilidad del pago.
- Usted y su cónyuge o ex cónyuge no hicieron transferencias de activos del uno al otro como parte de un plan fraudulento.
- Usted y su cónyuge o ex cónyuge no transfirieron la propiedad a usted para evitar el pago de impuestos.
- No declaró ni tampoco lo hizo adrede con el propósito de cometer una estafa.
- No presentó la declaración adrede con el propósito de cometer una estafa.
- No pagó los impuestos.
- Según los hechos y circunstancias, no sería justo que tenga que responsabilizarse por los

impuestos que no se pagaron.

- Su cónyuge o ex cónyuge fue el que dio la información incorrecta o incompleta en el formulario para los impuestos.

### ***¿Dónde puedo ir para recibir ayuda?***

El IRS puede que sean muy cínicos en el momento de revisar las peticiones para recibir alivio. Por esa razón, siempre y cuando sea posible, lo mejor es conseguirse a un experto cuando necesite reducción tributaria. El programa de asistencia jurídica al contribuyente de los Servicios Legales de Nueva Jersey puede ayudarlo. Llame a LSNJ-LAW™, la línea directa gratuita de asistencia jurídica de los Servicios Legales de Nueva Jersey para todo el estado, al 1-888-LSNJ-LAW (1-888-576-5529) e indique que necesita ayuda con relación a su situación tributaria. Las horas de servicio de la línea directa gratuita son de lunes a viernes, desde las 8 de la mañana a las 5:30 de la tarde. Si no cumple con los requisitos para recibir la asistencia de los Servicios Legales, le darán otras posibles fuentes.

*Traducido del inglés por Carmina Chung,  
traductora del servicio lingüístico de LSNJ*

### **Formulario para hacer el pedido**

- Sí, quiero suscribirme a *Looking Out for Your Legal Rights® / Cuáles Son Sus Derechos Legales*. Adjunto encontrará un cheque/giro postal por \$10.00 dólares para una suscripción por un año (10 ejemplares).

- Nueva suscripción       Renovación de la suscripción

Nombre \_\_\_\_\_

Dirección \_\_\_\_\_

Ciudad \_\_\_\_\_

Estado, Código postal \_\_\_\_\_

Haga el cheque a nombre de  
Legal Services of New Jersey

Envíe el formulario y el pago a  
Legal Services of New Jersey  
P.O. Box 1357  
Edison, NJ 08818-1357

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