



HOUSE BILL 661: Innocent Spouse Tax Relief.

2017-2018 General Assembly

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| Committee: House Finance | Date: May 23, 2017 |
| Introduced by: Rep. Boles | Prepared by: Greg Roney |
| Analysis of: First Edition | Committee Counsel |

OVERVIEW: *House Bill 661 would waive State tax responsibilities for a taxpayer determined by the federal Internal Revenue Service (IRS) to be an innocent spouse.*

CURRENT LAW: For federal and State purposes, a married couple can file a joint return. Each spouse is liable for the tax due on the joint return.

Internal Revenue Code (IRC) section 6015 offers taxpayers who signed a joint return 3 types of relief:

- Innocent spouse relief – Taxpayer did not know (and had no reason to know) that their spouse failed to report income or made other misstatements.
- Separation of liability relief – Taxpayer did not know about an erroneous item and is now divorced, separated, or living apart from their spouse.
- Equitable relief – Taxpayer does not qualify for innocent spouse relief or separation of liability relief but, based on all the facts and circumstances, it would be unfair to hold the taxpayer liable for an item attributable to their spouse.

G.S. 105-153.8(e) provides: "if a spouse qualifies for relief of liability for federal tax attributable to a substantial understatement by the other spouse pursuant to section 6015 of the Code, that spouse is not liable for the corresponding tax imposed by this Part attributable to the same substantial understatement by the other spouse." (emphasis added).

Under current policy based on G.S. 105-153.8(e), the NC Department of Revenue will only grant innocent spouse relief for an understatement of tax. Under IRC section 6015, the IRS can also grant relief for an underpayment of tax.

BILL ANALYSIS: House Bill 661 would require the State follow all determinations by the IRS under IRC section 6015 that a taxpayer is not liable for items attributable to their spouse on a joint income tax return. Innocent spouse relief under new G.S. 105-249.4 would include relief for both understatements of tax and underpayments of tax.

EFFECTIVE DATE: House Bill 661 would be effective for taxable years beginning on or after January 1, 2017.

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