



# Instructions for Form IT-280 Nonobligated Spouse Allocation

If you need help contacting the Tax Department or for the *Privacy notification*, see the instructions for your tax return.

## Who qualifies

You qualify as a nonobligated spouse if (1) you have income (such as wages or interest) and prepaid taxes (such as withholding or estimated tax payments) to report on a joint return, or (2) you are going to file a joint return for any refundable credit(s) and you want to disclaim your spouse's defaulted governmental education, state university, or city university loan, past-due support liability, or past-due legally enforceable debt to a New York State agency, or New York City tax warrant judgment debt because you do not want to apply your part of the joint refund or refundable credit to a debt owed solely by your spouse.

You **cannot** use Form IT-280 to disclaim your spouse's legally enforceable debt to the IRS or to disclaim a tax liability owed to another state. You must contact the IRS or the other state to resolve your responsibility for the asserted liability.

## How to file

Place the completed Form IT-280 in front of your original Form IT-201, IT-203, IT-214, or NYC-210. We need the information on it to process your refund as quickly as possible. You cannot file an amended return solely to disclaim your spouse's debt after you have filed your original return. However, you will be notified if your refund is applied against your spouse's defaulted governmental education, state university, or city university loan, past-due support liability, or past-due legally enforceable debt owed to a New York State agency, or New York City tax warrant judgment debt and you did not submit Form IT-280 with your return. You will then have ten days from the notification of offset date to file Form IT-280.

Complete Parts 1 and 2 of this form, and sign and date Part 3 in the spaces provided. If you are filing Form IT-214 or Form NYC-210 and do not have to file an income tax return, fill in only your name and the Social Security number of both spouses, and sign and date this form.

**Note: New York State Form IT-280 is used only to protect your portion of a joint refund from being applied against a debt owed solely by your spouse.** This form should not be used to request innocent spouse relief.

There are three types of innocent spouse relief: innocent spouse, separation of liability, and equitable relief. You may qualify for relief from full or partial tax liability on a joint return as an *innocent spouse* if (1) there is an understatement of tax on a joint return because of an omission or error involving income, deduction, credit, or basis; (2) you can show that when you signed the return you did not know and had no reason to know of the understatement; and (3) taking into account all the facts and circumstances, it would be unfair to hold you liable for the understated tax. You may also request a *separation of liability* for any understated tax on a joint return if you and your spouse or former spouse are no longer married, or are legally separated, or have lived apart at all times during the 12-month period prior to the date of filing for relief. If you do not qualify as an innocent spouse or for separation of liability, you may qualify for *equitable relief* if you can show that, taking into account all the facts and circumstances, you should not be held liable for any understatement or underpayment of tax. For more information, see Form IT-285, *Request for Innocent Spouse Relief (and Separation of Liability and Equitable Relief)*.

## Paid preparer's signature

If you pay someone to prepare your form, the paid preparer must also sign it and fill in the other blanks in the paid preparer's area of your form. A person who prepares your form and does not charge you should not fill in the paid preparer's area.

**Paid preparer's responsibilities** – Under the law, all paid preparers must sign and complete the paid preparer section of the form. Paid preparers may be subject to civil sanctions, criminal sanctions, or both if they fail to complete this section in full.

When completing this section, enter your New York tax preparer registration identification number (NYTPRIN) if you are required to have one. If you are not required to have a NYTPRIN, enter in the *NYTPRIN excl. code* box one of the specified 2-digit codes listed below that indicates why you are exempt from the registration requirement. You **must** enter a NYTPRIN or an exclusion code. Also, you must enter your federal preparer tax identification number (PTIN) if you have one; if not, you must enter your Social Security number.

Code	Exemption type	Code	Exemption type
01	Attorney	02	Employee of attorney
03	CPA	04	Employee of CPA
05	PA (Public Accountant)	06	Employee of PA
07	Enrolled agent	08	Employee of enrolled agent
09	Volunteer tax preparer	10	Employee of business preparing that business' return

See our website for more information about the tax preparer registration requirements.