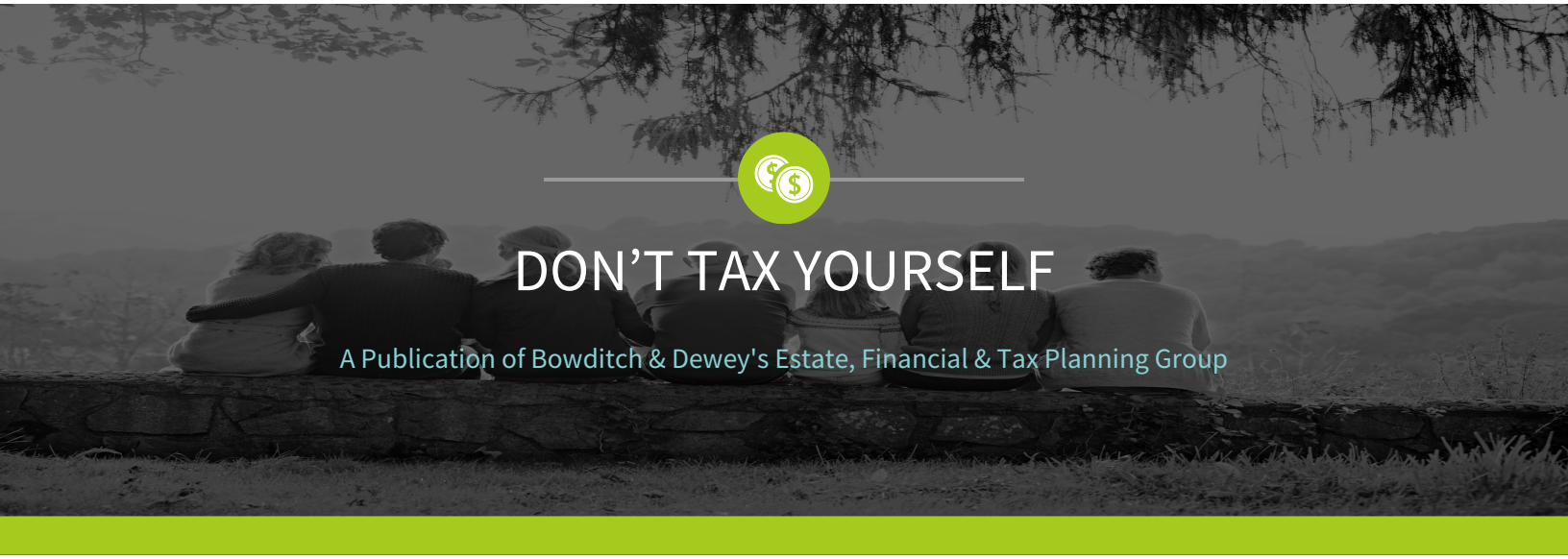


DON'T TAX YOURSELF

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Spousal Relief from Joint Tax Liability

BY SCOTT C. CASHMAN • MAY 31, 2019

As a general rule, when a married couple files a joint tax return, they are jointly and severally liable for the entire tax. But what happens if one spouse failed to report income and the other spouse did not know or have reason to know of the unreported income? Is the "innocent spouse" still jointly liable? Fortunately for spouses who qualify, relief is available under the tax code.

For federal tax purposes, three types of relief are available:

1. Innocent spouse relief
2. Separation of liability relief
3. Equitable relief

For additional information, see regulations 6015-1.

Prior to a recent change in Massachusetts law, innocent spouse relief was the only relief to Massachusetts income taxpayers. However, on January 10, 2019, Governor Baker signed into law "An Act Providing for Equitable Relief from Liability for Joint Filers of Tax Returns," which aligns Massachusetts law with the relief available under federal law and allows, in addition to innocent spouse relief, the relief available under the separation of liability and equitable doctrines.

On May 13, 2019, the Massachusetts Department of Revenue issued TIR 19-5, which provides guidance and outlines the procedures necessary to request relief.

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