

collect back taxes on the IRA distributions from him. He claimed “innocent spouse” status, but the IRS said he didn’t qualify because he had known about the distributions.

**Tax Court:** The husband hadn’t known of the tax due on the distributions, so he did qualify as an innocent spouse and escaped the tax on them.

*David R. Braden, TC Memo 2001-69.*

■ **IRS pays for not looking for document that didn’t exist.** An individual filed a *Freedom of Information Act* request asking the IRS to search for a document. But it delayed doing so until he filed in court to compel it. Then the IRS searched and found the document didn’t exist.

**Next:** The individual asked the Court to order the IRS to pay the legal costs he had incurred. But the IRS objected that because it didn’t have to produce any document in the end, it was the “prevailing party.”

**Court:** The only reason the IRS didn’t have to produce the document was that it didn’t exist—which the IRS wouldn’t have known had not the individual’s court filing “sped up the IRS’s search.” So the individual was the prevailing party, and the IRS must reimburse him.

*Frank G. Kruger, DC Nev., No. CV-S-00-877-LDG (PAL); 87 AFTR2d ¶2001-607.*

■ **Retroactively expanded innocent spouse relief gives refund.** The IRS seized a woman’s property to satisfy taxes owed on her husband’s income from an illegal activity.

**Her problem:** Under the law at the time, she was ineligible for innocent spouse relief because she knew of the income, since her husband had reported it on their joint return as “privileged income” without paying any taxes on it.

**Relief:** Congress later changed the law to permit innocent spouse relief whenever collecting tax on one spouse’s income from the other spouse would be “inequitable.” The new law is retroactive, so the wife could use it to seek a refund of the tax that was collected from her.

*Mercedes Flores, Court of Federal Claims, No. 97-046T; 88 AFTR2d ¶2001-5586. TH*