

# Injured Spouse Claim and Allocation

## Are You an Injured Spouse?

You are an injured spouse if you file a joint return and all or part of your share of the overpayment was, or is expected to be, applied (offset) against your spouse's past-due Federal tax, child or spousal support, Federal nontax debt (such as a student loan) or state income tax. Complete Form 8379 if **all three** of the following apply and you want your share of the overpayment shown on the joint return refunded to you. **But** if your main home was in a community property state (see line 6 below), you may file Form 8379 if only item **1** below applies.

1. You are not required to pay the past-due amount.
2. You reported income such as wages, taxable interest, etc. on the joint return.
3. You made and reported payments such as Federal income tax withheld from your wages or estimated tax payments, or you claimed the earned income credit or other refundable credit, on the joint return.

**Do not** use this form if you are requesting relief from liability for tax that you believe should be paid only by your spouse (or former spouse). Instead, file **Form 8857**, Request for Innocent Spouse Relief.

## How Do You File Form 8379?

- If you have not filed your joint return, attach Form 8379 to your return in the order of the attachment sequence number. **Enter "Injured Spouse" in the upper left corner of the return.** Because the IRS will process your claim before an offset occurs, filing Form 8379 with your original return may delay your refund by 6 to 8 weeks.
- If you have already filed the joint tax return, mail Form 8379 by itself to the Internal Revenue Service Center for the place where you lived when you filed the joint return. See your tax return instruction booklet for the address. **Be sure** to include copies of all W-2 and W-2G forms of both spouses and any Forms 1099-R showing income tax withheld. The processing of your claim may be delayed if you do not include these copies. Please allow at least 8 weeks for the IRS to process your claim.
- If you later file **Form 1040X**, Amended U.S. Individual Income Tax Return, requesting an additional refund, you should attach a revised Form 8379 if you want the refund allocated between you and your spouse.

**Note:** The Treasury Department's Financial Management Service (FMS), not the IRS, is authorized to apply (offset) all or part of the joint refund to past-due child or spousal support, Federal nontax debt, or state income tax. If you also owe past-due child or spousal support, Federal nontax debt, or state income tax, the FMS will apply all or part of your share of the refund to the debt. If an offset occurs, you will receive a notice from the FMS.

## Part I Information About the Joint Tax Return for Which This Claim Is Filed

- 1 Enter the following information exactly as it is shown on the tax return for which you are filing this claim. The spouse's name and social security number shown first on that tax return must also be shown first below.**

First name, initial, and last name shown first on the return	Social security number shown first : : : :	If Injured Spouse, check here ► <input type="checkbox"/>
First name, initial, and last name shown second on the return	Social security number shown second : : : :	If Injured Spouse, check here ► <input type="checkbox"/>

**Note:** If you are filing Form 8379 with your tax return, skip to line 5.

- 2 Enter the tax year for which you are filing this claim (for example, 2002) ► \_\_\_\_\_**

- 3** \_\_\_\_\_  
 Current home address City State ZIP code

- 4** Is the address on your joint return different from the address shown above? . . . . .  **Yes**  **No**

- 5** Check this box only if you are divorced or separated from the spouse with whom you filed the joint return and you want your refund issued in your name only . . . . .

- 6** Was your main home in a community property state (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, or Wisconsin) at any time during the year entered on line 2? . . . . .  **Yes**  **No**  
 If "Yes," which community property state(s)? \_\_\_\_\_

**Note:** Overpayments involving community property states will be allocated by the IRS according to state law.

## Go to Part II on the back.

**Privacy Act and Paperwork Reduction Act Notice.** Our legal right to ask for the information on this form is Internal Revenue Code sections 6001, 6011, 6109, and 6402 and their regulations. You are required to give us the information so that we can process your claim for refund of your share of an overpayment shown on the joint return with your spouse. We need it to ensure that you are allocating items correctly and to allow us to figure the correct amount of your claim for refund. If you do not provide all of the information, we may not be able to process your claim. We may give this information to the Department of Justice for civil and criminal litigation, and to cities, states, and the District of Columbia to carry out their tax laws. We may also disclose this information to other countries under a tax treaty or to Federal and state agencies to enforce Federal nontax criminal laws and to combat terrorism.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 13 min.; **Learning about the law or the form**, 10 min.; **Preparing the form**, 59 min.; and **Copying, assembling, and sending the form to the IRS**, 25 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **Do not** send the form to this address. Instead, see **How Do You File Form 8379?** above.

**Part II Allocation Between Spouses of Items on the Joint Tax Return**

Allocated Items	(a) Amount shown on joint return		(b) Allocated to injured spouse		(c) Allocated to other spouse	
<b>7 Income.</b> Enter the separate income that each spouse earned. Allocate joint income, such as interest earned on a joint bank account, as you determine. But be sure to allocate <b>all</b> income shown on the joint return. <b>a</b> Wages. . . . . <b>b</b> All other income. Identify the type and amount ▶ ..... ..... ..... .....						
<b>8 Adjustments to income.</b> Enter each spouse's separate adjustments, such as an IRA deduction. Allocate other adjustments as you determine. . . . .						
<b>9 Standard deduction.</b> If you itemized your deductions, go to line 10. Otherwise, enter in both columns (b) and (c) 1/2 of the amount shown in column (a) and go to line 11 . . . . .						
<b>10 Itemized deductions.</b> Enter each spouse's separate deductions, such as employee business expenses. Allocate other deductions as you determine . . . . .						
<b>11 Number of exemptions.</b> Allocate the exemptions claimed on the joint return to the spouse who would have claimed them if separate returns had been filed. Enter whole numbers only (for example, you <b>cannot</b> allocate 3 exemptions by giving 1.5 exemptions to each spouse) . . . . .						
<b>12 Credits.</b> Allocate any child tax credit, child and dependent care credit, and additional child tax credit to the spouse who was allocated the dependent's exemption. <b>Do not</b> include any earned income credit here; the IRS will allocate it based on each spouse's income. Allocate business credits based on each spouse's interest in the business. Allocate any other credits as you determine . . . . .						
<b>13 Other taxes.</b> Allocate self-employment tax to the spouse who earned the self-employment income. Allocate any alternative minimum tax as you determine. . . . .						
<b>14 Federal income tax withheld.</b> Enter Federal income tax withheld from each spouse's income as shown on Forms W-2, W-2G, and 1099-R. <b>Be sure to attach copies of these forms to your tax return or to Form 8379 if you are filing it by itself.</b> (Also include on this line any tax withheld on any other Form 1099 or any excess social security or tier 1 RRTA tax withheld.) . . . . .						
<b>15 Payments.</b> Allocate joint estimated tax payments as you determine . . . . .						

**Note:** The IRS will figure the amount of any refund due the injured spouse.

**Part III Signature.** Complete this part only if you are filing Form 8379 by itself and not with your tax return.

Under penalties of perjury, I declare that I have examined this form and any accompanying schedules or statements and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Keep a copy of this form for your records	Injured spouse's signature		Date	Phone number (optional) ( )	
	Paid Preparer's Use Only	Preparer's signature ▶	Date	Check if self-employed <input type="checkbox"/>	Preparer's SSN or PTIN
Firm's name (or yours if self-employed), address, and ZIP code ▶			EIN	Phone no. ( )	

