

Is the IRS keeping your tax refund to pay money your husband or wife owes?



You may be able to get it back by filing an Injured Spouse Claim

Who can file an Injured Spouse Claim?

Did the IRS keep your tax refund or say they were going to? You might be able to file an Injured Spouse Claim. To get your part of the refund, **ALL four of these things must be true:**

1. **You filed or plan to file a joint tax return with your husband or wife.**
2. **You don't owe the money.** Your husband or wife is the **only** one who owes the money. The IRS may have kept the tax refund because your husband or wife owes money for:
 - Child support
 - Student loans
 - Taxes from before you were married
 - Federal loans.

NOTE: If you **both** owe back taxes jointly, an injured spouse claim will not help you. You might want to talk to a tax expert. Ask if you should file for "innocent spouse relief" instead.

3. **You earned some of the income shown on your joint tax return.** This could be money from a job even if you are self-employed. **Self-employed** includes things like baby-sitting or cleaning houses.
4. **You paid part of the taxes shown on your joint tax return.** This can be federal income tax withheld from your paychecks or estimated tax payments. Or from your refundable earned income tax credit or your additional child tax credit.



Example 1: Mary and Bob

Mary is married to Bob. Mary earned \$4,000 last year and Bob earned \$5,000. Mary had taxes taken out of her paycheck. They have a joint tax return. They are supposed to get a \$1,200 tax refund.

Bob is behind on his child support payments to another woman. Bob and Mary got a letter. The letter said their tax refund would be kept to pay Bob's child support.



Mary should file an Injured Spouse Claim. She can get her part of the tax refund because:

- Mary does not have to pay Bob's past due child support.
- Mary earned part of the income they showed on their joint tax return.
- Mary had taxes taken out of her pay.

Example 2: Jane and John

Jane and John filed a joint tax return. Jane made \$5,000 as a cashier. Jane had taxes taken out of her paycheck. John made \$3,000 as a mechanic. Their \$400 tax refund is being taken to pay John's unpaid student loan.

Jane should file an Injured Spouse Claim. She can get her part of their tax refund because:

- Jane does not owe for the student loan John got before they married.
- Jane earned part of the income shown on their joint tax return.
- Jane had taxes taken out of her paychecks.

Example 3: Sue and Ron

Sue and Ron filed a joint income tax return. Last year Sue made \$6,000 and Ron made \$8,000. They are supposed to get a \$1,500 tax refund. The refund includes Earned Income Credit. But they got a letter saying they would not get it. It will be used to pay taxes Ron owed the IRS before he married Sue.

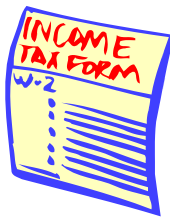
Sue should file an Injured Spouse Claim. She could get her part of the tax refund because:

- Sue does not owe the back taxes. Ron owed them before he married Sue.
- Sue earned part of the income shown on their joint tax return.
- Their joint tax return shows Sue had \$800 in Earned Income Tax Credit.



How do I file an Injured Spouse Claim?

- You need IRS Form 8379. Call the Tennessee Taxpayer Project at **1-866-481-3669**. Ask us to mail one to you. It's a free call. Or go to the internet at www.irs.gov.
- Fill out IRS Form 8379 and sign it.
- Make copies of all W-2 and 1099-R forms. Your employer gives you these forms in January to go with your income tax return. They show how much tax was taken out of your paycheck. You need all the forms for you and your husband or wife.
- Have you have **already filed** your joint tax return? Then sign the front page of Form 8379. Mail the form to the IRS Service Center where you lived when you filed the joint return. Send copies of your W-2 and 1099-R forms with it.
- Are you **getting ready to file** your joint tax return? Then put Form 8379 with your tax return. Write "Injured Spouse" in the upper left corner of your tax return. Mail the form and your tax return to the IRS Service Center where you live. You can file your tax return and Form 8379 electronically.



Did you **live in Tennessee** when you filed the joint return? Then mail IRS Form 8379 to the IRS Service Center, Austin, TX 73301-0002.

You should get a letter from the IRS in about 8 weeks. The letter will say if you get your part of the refund or not.

When should I file?

File as soon as you get a letter saying they are keeping your tax refund.

What if you don't get a letter? Then file as soon as they keep your tax refund.

How to get help

Do you have questions about Injured Spouse Claims? To find out if we can help or to get the form, call:

Tennessee Taxpayer Project
A Low Income Taxpayer Clinic

1-866-481-3669
It's a free call.

Have low income and legal problems?

Call Legal Aid at **1-800-238-1443**. It's a free call. Or visit us on the internet at **www.las.org**

Special thanks to the Scott County Women's Shelter for requesting this brochure.

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NOTE: This information cannot take the place of advice from a lawyer. Each case is different and needs individual legal advice. You should contact a lawyer if you need representation on a tax matter or if you have questions.