

**Step 3:** Make copies of all W-2, 1099-R, or 1099-MISC forms. Your employer or the payor will give you these papers in January to go with your income tax return. They show how much tax was taken out of your paycheck. You need all the papers for you and your husband or wife.



**If you need IRS Form 8379:**

- Call the Tennessee Taxpayer Project at 1-866-481-3669. We will mail you one!
- Go to [www.irs.gov](http://www.irs.gov) for Form 8379.

**Have you already filed your joint tax return?**

Then sign and date Form 8379 in Part IV of the page.

If you lived in Tennessee when you filed, send Form 8379 to the “Department of the Treasury, Internal Revenue Service, Kansas City, MO 64999-0002.” Send copies of your W-2, 1099-R, and 1099-MISC forms with it. Don’t send your tax return.

**Are you getting ready to file your joint tax return?**

Put Form 8379 with your tax return. Write “Injured Spouse” in the upper left corner of your tax return. **Note:** You do not have to sign and date the form if it is filed with your tax return. If you are mailing the return, include Form 8379 with it and mail it as normal.

You can also file your tax return and Form 8379 electronically. Are you filing an amended return? Then attach Form 8379 to Form 1040X.

You should get a letter from the IRS in about 8 to 14 weeks. The letter will say if you get your part of the refund or not. Note: Processing times may vary. It may take much longer than 14 weeks.

**When should I file?**

File with your tax return. You can also file after the IRS keeps your tax refund. You should file as soon as possible, since there are strict deadlines for asking the IRS for refunds.

**How to get information about the tax refund offset?**

Call the Department of the Treasury’s Bureau of Fiscal Services at 1-800-304-3107. They will give you the agency’s contact information.

**Who We Are**

Legal Aid Society is Tennessee’s largest non-profit law firm. Our mission is to enforce, advance, and defend the legal rights of low income and vulnerable people to obtain the basic necessities of life.

**Contact Us**

We have offices in Clarksville, Columbia, Cookeville, Gallatin, Murfreesboro, Nashville, Oak Ridge, and Tullahoma.

**Tennessee Taxpayer Project**  
**A Low Income Taxpayer Clinic**  
**Legal Aid Society**  
**1-866-481-3669**



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Tennessee Taxpayer Project

# What is an Injured Spouse Claim?

An Injured Spouse Claim is a way to protect your separate legal interest in a joint federal income tax refund.

**Call the Tennessee Taxpayer Project at 1-866-481-3669 if you have questions or need more information. It's a FREE call!**



**LEGAL AID SOCIETY**  
OF MIDDLE TENNESSEE AND THE CUMBERLANDS



Are you losing your federal income tax refund because of a debt your spouse owes? 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 federal tax return with your spouse (the person you are legally married to).



2. You don't owe the money. Your spouse is the only one who owes the money.

The IRS may have kept the tax refund because your spouse owes money for:

- Child support
- Public benefit overpayments
- Student loans
- Unemployment debt
- Taxes from before you were married
- Taxes filed on a separate return
- Federal loans



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" on Form 8857 instead.



3. You earned some of the income shown on your joint tax return or you qualify for a refundable tax credit.

This could be money from a job even if you are self-employed. Self-employed includes things like babysitting, cleaning houses, or yard work. Or this could be money from a tax credit.



4. You paid part of the taxes shown on your joint tax return (for example, you had withholdings at the job you worked), or you had refundable credits such as:

- Earned Income Tax Credit; or
- Additional Child Tax Credit; or
- American Opportunity Tax Credit; or
- Premium Tax Credit

### Examples that qualify for an Injured Spouse Claim

#### Example 1: Mary and John



Mary is married to John. Mary earned \$10,000 last year and John earned \$5,000. Mary had taxes taken out of her paycheck. They filed a joint tax return. They are supposed to get a \$1,200 tax refund.

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

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

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



#### Example 2: 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 filed a joint tax return.
- Sue does not owe back taxes. Ron owed them before he married Sue.
- Sue earned some 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?

**Step 1:** You need IRS Form 8379.

**Step 2:** Fill out IRS Form 8379. Don't forget to fill in the correct tax year in Part I. Don't forget to check the box saying that you are the injured spouse in Part II.