

Important

- You must have had taxable income and paid federal income tax **OR** be entitled to claim refundable tax credits on a jointly filed return to be eligible for the Injured Spouse Allocation of the refund.
- You must not be legally liable for the unpaid debt that gives rise to the refund being garnished.
- Form 8379 must be filed for each tax year.
 - Attach the Form 8379 to your tax return filed electronically or by paper.
 - File the Form 8379 by itself if your return has already been filed.
- If you qualify for Injured Spouse your tax preparer may be able to assist with applying for the allocation during preparation of your current year tax return.
- For assistance with prior year Injured Spouse Allocation or if you have already filed your current year return contact ABDC.

Consider...

File Injured Spouse to **avoid filing Married Filing Separately**. Married filing separate taxpayers are disqualified from receiving certain credits and other tax benefits, such as the Earned Income Credit.

LITC

Alaska Business Development Center's Low Income Taxpayer Clinic provides assistance year round to low income and English-as-a-Second Language taxpayers. Assistance includes education on taxpayer rights and responsibilities, consultation on IRS issues and representation on IRS disputes. Tax preparation is not conducted under the Low Income Taxpayer Clinic.



VTLP Proudly Serving Rural Taxpayers Since 1995

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Understanding...

INJURED SPOUSE

How to retain your portion of a tax refund from a jointly filed return in which the refund was or will be garnished to pay your spouse's past due debt.



Brought to you by:
Alaska Business Development Center
Low Income Taxpayer Clinic

Qualifications

- The injured spouse allocation allows the injured spouse to obtain their share of a refund that has been or will be garnished because of their spouse's debt.
- You may be an Injured Spouse if you file a joint tax return and all or part of your portion of the refund was, or is expected to be, applied to your spouse's legally enforceable past due financial obligation such as:
 - Unpaid federal tax liabilities.
 - Past due child support.
 - Past debts owed to other federal agencies, such as student loans.
- To be considered an Injured Spouse you must:
 - Be due a refund on a jointly filed return and
 - Have paid federal income tax **OR** claimed a refundable credit based on your income and
 - Not be legally obligated to pay the past due debt.

File...

Form 8379 Injured Spouse Allocation

- With your tax return OR
- Standalone OR
- After you receive a Notice of Offset from the IRS

Benefits

- Protects the portion of any joint refund that you are entitled to due to your tax payments or credit allocation.
- Allows you to file a joint return and benefit from credits not available to or limited by the married filing separate status such as:
 - Earned Income Credit
 - Additional Child Tax Credit
 - American Opportunity Credit

How to File

- File Form 8379 with your current year tax return.
- File after the original joint return is filed; submit Form 8379 with copies of the following:
 - All Forms W-2 and W-2G, both spouses.
 - All Forms 1099 showing federal income tax withholding, both spouses.



Processing Time

The estimated time for processing Form 8379 is based on how it is filed.

- 11 weeks - electronically filed return.
- 14 weeks - paper filed return.
- 8 weeks - form mailed independently after the original return was filed (not with a tax return).



Common Mistakes

Missing Information

All forms indicating federal income tax withholding (W-2, W-2G, 1099-G, 1099-R) are not included when Form 8379 is filed, after an offset occurs, resulting in a delay of issuing the injured spouse's allocation.

Inappropriate Filing

Taxpayers sometimes file Form 8379 when they do not qualify and/or the form is filed when a tax debt or non-tax debt does not exist. This will delay the issuance of the original refund.