

IRM PROCEDURAL UPDATE

DATE: 04/15/2014

NUMBER: WI-21-0414-0696

SUBJECT: Refund Offset - Clarification for the Time Period for Filing Form 8379

AFFECTED IRM(s)/SUBSECTION(s): 21.4.6.5.8.9

CHANGE(s):

IRM 21.4.6.5.8.9, Changed the title from Statute of Limitations for Processing Form 8379 to Time Period for Submitting Form 8379; Removed all references to "Statute of Limitations" and revised entire section with applicable time periods per guidance received from Chief Counsel.

1. Form 8379, *Injured Spouse Allocation*, is not a separate claim. It is an avenue the non-debtor spouse uses to provide additional information regarding his or her share of the overpayment shown on a jointly filed original tax return (Form 1040, *U.S. Individual Income Tax Return*, or amended return Form 1040-X, *Amended U.S. Individual Income Tax Return*), that claims a credit or refund.
2. Taxpayers may file Form 8379 with the return or after offset.
 - a. Some taxpayers will attach Form 8379 to their joint Form 1040 or Form 1040X, see IRM 21.4.6.5.8.9.1, *Form 8379 Attached to Joint Form 1040/Form 1040X*.
 - b. Others may file Form 8379 after filing Form 1040 or Form 1040X, see IRM 21.4.6.5.8.9.2, *Form 8379 Not Attached to Joint Form 1040/Form 1040X*.
3. If the IRS offsets the refund claimed on a Form 1040/Form 1040X (in whole or in part) to a Federal tax debt or a TOP debt, the IRS does not issue a Notice of Claim Disallowance, as nothing is being disallowed.
4. If the Form 8379 is not attached to the joint Form 1040 or Form 1040X, but is instead filed separately, the time period for filing Form 8379 is as follows:
 - a. Federal Tax Debts - Within 2 years from the date of offset.
 - b. Treasury Offset Program (TOP) Debts - Within 6 years from the date of offset.

NOTE: To determine when the Bureau of Fiscal Service notified the non-debtor spouse of the offset, use the TC 846/TC 840 date from which the offset occurred.