



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

21.4.6

SEPTEMBER 6, 2023

EFFECTIVE DATE

(10-01-2023)

PURPOSE

- (1) This transmits revised IRM 21.4.6, Refund Inquiries, Refund Offsets procedures.

MATERIAL CHANGES

- (1) IRM 21.4.6.5.2 (2) 21) Added additional ways to receive information for incomplete Form 8379
- (2) IRM 21.4.6.5.2 (11) New for Application 21 assistors to transfer taxpayers who are proficient in English to Application 35, Renumber remaining section
- (3) IRM 21.4.6.5.8.2 (6) IPU 22U1210 issued 12-16-2022 Added After sending Letter 3179C close your case
- (4) IRM 21.4.6.5.8.3 (1) IPU 22U1210 issued 12-16-2022 Added Injured Spouse must be worked with within the 45-day interest free period to avoid paying interest
- (5) IRM 21.4.6.5.8.3 (17) d) Added additional suspense time for overseas letters
- (6) IRM 21.4.6.5.8.3 (17) h) Updated procedures for V- freeze.
- (7) IRM 21.4.6.5.8.8 (1) 3) and (2) Added additional suspense time for overseas letters
- (8) IRM 21.4.6.5.8.9 (3) IPU 22U1210 issued 12-16-2022 Added Use a HC 3, RC 086, SC 7 when inputting the TC 290 for .00
- (9) IRM 21.4.6.5.9 (1) h) Added additional suspense time for overseas letters
- (10) IRM 21.4.6.5.10.2 (3) New Note regarding the exception added to IRC 32 allowing some taxpayers to claim the EITC on MFS returns
- (11) IRM 21.4.6.5.10.3 (3) IPU 22U1210 issued 12-16-2022 Added "non EIP" to first sentence Subtract any previous offset or non EIP refund
- (12) IRM 21.4.6.5.15.1 (3) Reminder added and the Form 8379 was timely
- (13) IRM 21.4.6.5.33.3 (1) Added tax year 2021 and that EIP 3, issued in 2021, was not subject to offset.
- (14) IRM 21.4.6.5.33.3 (3) IPU 22U1210 issued 12-16-2022 Added additional information regarding RRC split
- (15) IRM 21.4.6.5.33.4 (4) IPU 22U1210 issued 12-16-2022 New Allocate CTC 50/50 if the taxpayer does not allocate
- (16) IRM 21.4.6 Editorial changes made throughout this revision

EFFECT ON OTHER DOCUMENTS

IRM 21.4.6, Refund Inquiries, Refund Offsets, dated September 6, 2022 effective October 1, 2022 is superseded. The following IRM procedural updates (IPU), has been incorporated into this IRM: IPU 22U1210 dated 12-16-2022.

AUDIENCE

All Internal Revenue Service employees working paper and phone Form 8379, Injured Spouse Allocation and Refund Offset inquires.

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21.4.6
Refund Offset

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21.4.6.1
(09-22-2017)
**Program Scope and
Objectives**

- (1) **Purpose:** This section covers processing related to Refund Offsets and Offset Reversals. This includes the offset of tax overpayments to outstanding Federal tax debts, child support, Treasury Offset Program debts, State Income tax obligations, and Unemployment Compensation debts. Also covered is the processing of Form 8379, Injured Spouse Allocation, and Offset Bypass Indicator (BPI), and processes for reversing offsets when Mixed Entity, Mixed Period, ID Theft, Hardship and Offset Bypass Refunds, and First-Time Homebuyer Credit Recapture is involved.

Reminder: Internal phone numbers for the TOP Liaisons Headquarters Staff, and Centralized Insolvency Operation (CIO) have been labeled as Official Use Only (OUO).

- (2) **Audience:** The primary users of the IRM are all the IRS employees in Business Operating Divisions (BODs) who are in contact with taxpayers by telephone, correspondence, or in person.
- (3) **Policy Owner:** The Director of Accounts Management.
- (4) **Program Owner:** Policy and Procedures BMF (PPB), Accounts Management (AM), Wage and Investment (WI).
- (5) **Primary Stakeholders:** The primary stakeholders are Management Officials who rely on accurate data, reports and quality information to ensure there are no gaps in efficiencies.
- (6) **Program goals:** Program goals for this type of work are included in the AM Program Letter as well as IRM 1.4.16, Resource Guide for Accounts Management Managers

21.4.6.1.1
(09-22-2017)
Authority

- (1) Authority for these procedures is found in IRC 6511. Refer to IRM 1.4.3.1.2, Authorities, for more information.

21.4.6.1.2
(09-22-2017)
Responsibilities

- (1) The Wage and Investment Commissioner has overall responsibility for the policy related to this IRM which is published on a yearly basis.
- (2) AM's PPB Section has responsibility for information in this IRM.
- (3) The Director of Accounts Management is responsible for policy related to this IRM.
- (4) The Chief of this team is responsible for ensuring this IRM is timely submitted to publishing each year.
- (5) Additional information is found in IRM 1.1.13.7.3 Accounts Management and IRM 21.1.1, Accounts Management and Compliance Services Overview.

21.4.6.1.3
(09-22-2017)
Program Controls

- (1) **Program Reports:** The program reports provided in this IRM are for identification purposes for the AM Customer Service Representatives (CSRs) and Tax Examiners (TEs). For reports concerning quality, inventory, and auto aged listing (AAL), please refer to IRM 1.4.16, Accounts Management Guide for Managers. AALs can also be viewed by accessing Control Data Analysis, and Project PCD, which are on the Control-D/Web Access server. This server has a login program control.

- (2) **Program Effectiveness:** Program Effectiveness is determined by AM employees successfully using IRM guidance to perform necessary account actions.
- (3) **Program Controls:** Goals, measures and operating guidelines are listed in the yearly Program Letter. Quality data and guidelines for measurement are referenced in IRM 21.10.1, Quality Assurance - Embedded Quality (EQ) Program for Accounts Management, Campus Compliance, Field Assistance, TEGE, Return Integrity and Compliance Services (RICS), and Electronic Products and Services Support.

21.4.6.1.4
(09-22-2017)
Acronyms

- (1) For a comprehensive listing of the IRS acronyms, please refer to the *Acronym Database*.

21.4.6.1.5
(03-19-2021)
**Related Resources,
Taxpayer Bill of Rights
(TBOR) and Civil Rights**

- (1) Refer to IRM 20.1.1.1.6, Related Resources, for information on related resources that impact internal controls.
- (2) The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accordance with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see <https://www.gov/taxpayer-bill-of-rights>.
- (3) The IRS mission is to provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.
- (4) Under these rights taxpayers have the right to receive prompt, courteous, and professional assistance in their dealings with the , to be spoken to in a way they can easily understand, to receive clear and easily understandable communications from the IRS, and to speak to a supervisor about inadequate service.
- (5) If a taxpayer believes they have been discriminated against on the basis of sex, race, color, national origin (including limited English proficiency), disability, reprisal, religion, or age, advise the taxpayer that they can forward an email to **EDI.Civil.Rights.Division@.gov*, or send a written complaint to: Internal Revenue Service, Office of Equity, Diversity and Inclusion, CRU , 1111 Constitution, NW, Room 2413, Washington, DC 20224. A complaint form can be obtained at <https://www.gov/about-/your-civil-rights-are-protected>

21.4.6.2
(09-06-2022)
**What Is a Refund
Offset?**

- (1) Under Internal Revenue Code IRC 6402(a), the IRS may apply a taxpayer's overpayment to an outstanding federal tax debt. Similarly, sections 6402(c), (d), (e), and (f) require the IRS to apply a taxpayer's overpayment to outstanding child support debts, federal agency nontax debts, state income tax obligations, or unemployment compensation, respectively. This application of a tax overpayment is called a "refund offset". Overpayments credited against unpaid federal tax liabilities must be credited within the applicable period of limitations see IRC 6402 (a).
- (2) Refund offsets to child support, TOP debts, State income tax obligations, and Unemployment Compensation debts are handled by the Treasury's Bureau of the Fiscal Service, (BFS) formerly Financial Management Service (FMS),

through the Treasury Offset Program. This occurs after a refund is certified by Internal Revenue Service for payment by BFS, but before the refund check is issued.

Note: For the State Income Tax Levy Program (SITLP), refer to IRM 21.5.7.4.7.17, State Income Tax Levy Program (SITLP).

- (3) Unless specifically exempted by statute, all taxpayer refunds are subject to offset.
- (4) Effective January 2016, the Department of the Treasury, Bureau of the Fiscal Service (BFS), amended its regulation governing the offset of tax refund payments to collect certain past-due child support obligations. This rule limits the time during which Treasury may recover certain tax refund offset collections from States, when the States have already forwarded such funds to custodial parents as required or as authorized by applicable laws. This change limits the time during which Treasury may require States to return the offset funds to six months from the date of such collection. 31 CFR 285.3 (h).
- (5) The six-month limitation period, noted in (4) above, does not apply to the processing of Form 8379, Injured Spouse Allocation. Continue to process injured spouse cases as always.
- (6) The Agency and Sub Agency codes will also be shown on the taxpayer's account. The purpose of the Agency/Sub Agency code is for internal use only. Therefore, do not disclose this information to the taxpayer.

Note: Do not use the Agency or Sub Agency codes found on CC TXMOD or CC IMFOL for processing an injured spouse allocation, nor for advising the taxpayer of the existence/non-existence of a TOP debt at the Bureau of the Fiscal Service.

21.4.6.3
(09-06-2022)
**Disclosure and
Retention Records**

- (1) Review procedures in IRM 11.3.1, Introduction to Disclosure, for official disclosure information.
- (2) Be sure you are speaking with the taxpayer or authorized representative. Refer to IRM 21.1.3.2, General Disclosure Guidelines, for more information.
- (3) Review procedures in IRM 10.5.1.6.7.2 , Answering Machine or Voice Mail, before leaving a message on a taxpayer's or authorized representative's answering machine or voice mail.
- (4) Review procedures in IRM 21.1.3.9, Mailing and Faxing Tax Account Information, before faxing or mailing confidential information to the taxpayer or authorized representative.
- (5) Review procedures in IRM 21.3.4.3.7, Use of Fax for Taxpayer Submission, before accepting faxed information.
- (6) Per Document 12990, Records and Information Management Record Control Schedules, we are maintaining all paper and electronic records accordingly.

21.4.6.4
(10-01-2021)

Refund Offset Research

- (1) There are two types of refund offsets:
 - Federal tax offset
 - Treasury Offset Program offset (effective 01/11/1999)
- (2) Command Code (CC) INOLE contains debt liability indicators based on information received from the Bureau of the Fiscal Service. The indicators are used to identify a Federal tax debt, TOP debt, or both. You must thoroughly research for any outstanding Federal tax or TOP debts. Always attach the INOLES or IAT Results IS screens for both spouses showing the debt indicator at the time the Form 8379, Injured Spouse Allocation, is worked. Include BMF screens when there is a X-REF EIN. The debt indicators are:
 - (I) IRS Debt

Note: The (I) indicator is not always set for all Federal tax debts. To determine if there is an outstanding Federal tax debt, you must also research Command Code (CC) IMFOL, CC BMFOL, and/or CC TXMOD as well as CC INOLES even on “N” indicator cases. See IRM 21.4.6.5.8.3, Processing of Form 8379 Injured Spouse Allocation, for conditions when the remaining overpayment may not offset.
 - (F) Bureau of the Fiscal Service TOP Debt
 - (B) Both the IRS and Bureau of the Fiscal Service TOP Debt
 - (N) No Debt

Note: The IAT Results IS screen may respond with a debt indicator “N” when an invalid Social Security Number (SSN) indicator follows the Taxpayer Identification Number (TIN). The IAT Tool is designed to research CC INOLET when the invalid indicator is present. If CC INOLET does not display a debt indicator, then the IAT Results IS screen displays the “N”. Additional research is needed if the secondary TIN is invalid.
- (3) A tax overpayment must offset to an outstanding Federal tax debt before it offsets against other debts or is applied to a credit elect. The priorities for offset are:
 1. Federal Tax, Primary Taxpayer Identification Number (TIN)
 2. Individual Retirement Account (additional tax reported on Form 5329, Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts).
 3. Shared Responsibility Payment (SRP) see IRM 4.19.13.10.7 Shared Responsibility Payment (SRP)
 4. Civil Penalty
 5. Federal Tax (Secondary TIN)
 6. Business Master File (BMF)
 7. Non-Master File (NMF)
 8. Treasury Offset Program
 9. Credit Elect

Note: The Collection Statute Expiration Date (CSED) must be considered in all cases and the overpayment will offset to the earliest unexpired Imminent CSED for all MFT 29, MFT 30, MFT 31, MFT 35, or MFT 55 modules.

- (4) The priority of offsets within Treasury Offset Program are:

1. Office of Child Support Enforcement
 - Temporary Assistance to Needy Families (TANF) (payments to the state) and/or
 - Non-Temporary Assistance to Needy Families (non-TANF) (payments to the custodial parent through the state)

Note: Bureau of the Fiscal Service will reduce the offset against the oldest certified debt first.

2. Federal Agencies
3. State Income Tax obligations
4. Unemployment Compensation

(5) An indicator of “N” means no debt. However, a debt may exist at Bureau of the Fiscal Service, see IRM 21.4.6.5.8.3, Processing of Form 8379 Injured Spouse Allocation, for instructions.

(6) Generally, the IRS indicator (I) is set when the taxpayer has any one of the following conditions present on their account:

- a. Individual Master File (IMF) primary or spousal tax debt
- b. Business Master File (BMF) tax debt
- c. Non Master File (NMF) tax debt (V— freeze, Transaction Code (TC) 130 on entity
- d. Refund Freeze (TC 810)
- e. Taxpayer Delinquency Investigation (TDI)
- f. Bankruptcy (—V or —W freeze, TC 520 on account with closing code 60-67, 81 or 83-89 on the account.)
- g. Criminal Investigation (CI) (Z— or —Z freeze, TC 914/TC 916/TC 918)

Caution: There are instances in which one of the above is valid, however if the (I) indicator is not set, see IRM 21.4.6.4, Refund Offset Research, paragraph (2).

(7) The Treasury Offset Program debt indicator (F) is set when the Bureau of the Fiscal Service informs the Internal Revenue Service (IRS) that at least one TOP debt exists and an offset may occur if a refund is authorized. The presence of this indicator does not guarantee a TOP offset will occur. The status of a debt, at the Bureau of the Fiscal Service may change daily. The debt may be activated, inactivated or deleted within TOP before a refund is issued. Therefore, discrepancies may arise from one cycle to the next and the IRS may not be aware of a TOP debt. Consequently, the refund will offset, resulting in having to reverse the offset to process the Form 8379, Injured Spouse Allocation. Also, the refund name line may not match the debtor’s name in TOP, allowing a refund to be issued despite the presence of a TOP debt.

(8) The “B” indicator is set when both the IRS and TOP debt indicators are present.

(9) Command Code (CC) TXMOD also contains the debt liability indicator, found directly below the Transaction Code (TC) 846 and is displayed in the form of the number “0” or “1”. The indicator is set at the time the TC 846 is generated on the module and is shown as: **DMF-LIAB-IND>0 or DMF-LIAB->1.**

- a. If the indicator on CC TXMOD is a "0", the debt indicator on CC INOLE will be an "N" or an "I". If the CC TXMOD debt liability indicator is a "1" the debt liability indicator on CC INOLE will be an "F", or a "B".
 - b. If a "0" or "1" debt liability indicator is set on CC TXMOD, it does not guarantee that an offset will or will not occur. This is due to the timing involved in the data exchange between the Bureau of the Fiscal Service and the IRS.
 - c. A TC 898 or TC 971 AC 598 (manual input of TOP offset record) may be present on the tax module even though the indicator is set to "0". In addition, a TC 898 or TC 971 AC 598 may not be present when the indicator is set to "1". The debt indicator on CC INOLE is updated daily.
- (10) Do not use the **DMF-LIAB-IND** found on CC TXMOD or CC IMFOL for processing an injured spouse allocation, nor for advising the taxpayer of the existence/non-existence of a TOP debt at the Bureau of the Fiscal Service. The only purpose of this indicator is to provide necessary information for use in the IRS automated telephone responses.

21.4.6.4.1
(12-04-2014)
Tax Offset

- (1) A refund offset to an outstanding IMF, BMF, or NMF tax debt is referred to as a tax offset. Tax offsets appear on a tax module as:

- Transaction Code (TC) 820, manual credit transfer
- TC 826, computer-generated tax offset
- TC 896, computer-generated tax offset from IMF to BMF, Individual Retirement Account File (IRAF) or Shared Responsibility Payment (MFT 35) without an Agency/Sub-Agency (AG/SA) Code

Reminder: TC 896 without an AG/SA code **is not** a DMF offset. Refer to Document 6209 , Section 8 - Master File Codes, for additional information.

Exception: A TC 896 with an Agency/Sub-Agency (AG/SA) Code reflects a computer-generated offset to the DMF made from 1984 through January 11, 1999. It is not a DMF offset if there is no AG/SA code present. Refer to Document 6209 , Section 5 - Debtor Master File (DMF), for agency listing.

- (2) A tax offset will not occur in certain situations, see IRM 21.4.6.5.10.5 Injured Spouse Refund - Tax Offset.

21.4.6.4.1.1
(10-01-2014)
Tax Offset Reversal

- (1) A tax offset reversal may be required if the taxpayer's response to the tax assessment results in either a full or partial abatement on a married filing joint (MFJ) account. Any refund generated by the abatement must be paid jointly to both spouses unless one or more TC 706 credits is present **and** all four of the following items are true:

- The spouses' names on the account do not both appear on the originating account. Meaning, the TC 706 credits must transfer from one spouse on the originating account either as a single or separate filer or as a joint filer with a new spouse.

Example: Mary Cod filed single for 2019. Her 2019 overpayment offsets with TC 706 to the 2017 account filed as John & Mary Cod, married filing joint.

- No payments or credits, other than a TC 706 credit, posted to the MFJ account since the tax assessment. Prohibited credits include TC 670, 640, 700, etc.
- In the case of partial abatements, all TC 706 credits transferred from the same person. (Using the example above, only TC 706 credit(s) are from Mary Cod.)
- All TC 706 credits occurred within two years before the date of the full or partial abatement.

Note: Compare the TC 706 transaction date to the TC 150, 291, 301, 295, or 299 transaction date.

- (2) If the TC 706 credit(s) is/are present and all four of the above items are true, move the applicable TC 706 credit(s) back to the modules where it/they originated.

Example: Husband and wife file a joint return for tax year 2019. The IRS assesses an additional \$800.00 for their 2019 joint liability based on an examination of the return. The taxpayers divorce. The wife later files an income tax return for 2020 that claims a \$500.00 overpayment. The husband does not file an income tax return for 2020 that claims an overpayment. Because of the outstanding tax assessment, the wife's \$500.00 credit is transferred in April 2021 to the married filing joint (MFJ) tax liability for 2019. No other payments or credits are made to the 2019 MFJ account. On September 1, 2021, the IRS partially abates \$400.00 of the 2019 tax assessment. Because all four requirements in paragraph (1) above are met move the \$100.00 credit that results from the partial abatement back to the wife's 2020 account to prevent the credit from refunding from the 2019 MFJ account.

Example: Husband and wife file a joint return for 2019. The IRS assesses an additional \$800.00 for their 2019 joint liability based on an examination of the return. Taxpayers divorce. The wife files an income tax return for 2020 that claims a \$500.00 overpayment. The husband files an income tax return for 2020 that claims a \$300.00 overpayment. Because of the outstanding tax assessment, the \$500.00 and \$300.00 credits are transferred in April 2021 to the MFJ tax liability for 2019. No other payments or credits are made to the 2019 MFJ account. On September 1, 2021, the IRS fully abates the tax assessment on tax year 2019. Because all four requirements above are met, move the \$500.00 credit back to the wife's 2020 account and the \$300.00 credit back to the husband's 2020 account. To prevent the credits from refunding from the 2019 MFJ account, move the credit(s) **before** abating the tax on that year.

Caution: If an adjustment is made to abate the tax, the appropriate hold code 1, 2 or 4 is needed to prevent the generation of the refund on the 2019 MFJ account and a TC 570 must be used for the credit transfer when posting the credit(s) back to the originating account(s). Otherwise, the computer will automatically offset the credit(s) back to pay the balance due.

1. Reverse the TC 706(s) to the originating account and input TC 570 on the credit side. If credit interest was allowed on the offset, the credit interest must also be reversed with TC 772.

2. Input TC 571 with Posting Delay Code 1 on the originating account to allow refund to issue after the adjustment to the joint account posts and satisfies that module.
3. Input adjustment to the joint module, using the appropriate hold code 1, 2 or 4 as appropriate to ensure the overpayment does not offset.

21.4.6.4.2
(01-20-2017)
**Treasury Offset Program
(TOP) Offset**

- (1) The Bureau of the Fiscal Service initiates refund offsets to outstanding federal agency debts or child support, State Income tax obligations and Unemployment Compensation debts. These offsets are referred to as TOP offsets. A TOP offset appears on the module as:
 - TC 898 or TC 971 AC 598 (manual input of TOP offset record) with an Offset Trace Number (OTN), an offset amount, and a debtor-TIN field, if the offset is for a secondary spouse
 - OTN - Starting with 1 indicates primary taxpayer debt
 - OTN - Starting with 2 indicates secondary taxpayer debt
- (2) TOP offsets occur after the IRS has certified a refund to The Bureau of the Fiscal Service for payment (TC 840/TC 846 on account), but before Bureau of the Fiscal Service issues the refund.
- (3) A TOP offset reduces the amount of the IRS refund by the amount of the TC 898 or TC 971 AC 598.

Note: It is important to understand that the amount of a refund certified by the IRS to the Bureau of the Fiscal Service for payment may not be the amount that is issued by Bureau of the Fiscal Service to the taxpayer. The taxpayer may not receive any refund at all if the whole amount is offset.

21.4.6.4.2.1
(05-07-2018)
**TOP Offset Bypass
Indicator (BPI)**

- (1) A Treasury Offset Program Bypass Indicator is assigned to all manual and systemic refunds certified to the Bureau of the Fiscal Service. The BPI is a one-digit indicator that identifies for BFS whether the refund is eligible for offset by TOP.

Note: Certain BPIs also identify one of the spouses on a joint refund as eligible for offset. This is required for injured spouse allocation processing.

- (2) Generally, a BPI is generated systemically, but when issuing a manual refund, you must input the BPI on CC RFUND.

Caution: Non-Integrated Data Retrieval System (IDRS) manual refunds issued via Form 3753, Manual Refund Posting Voucher, are subject to TOP offset. A BPI is needed on these refunds, but is limited to BPI 0 and 3. If an offset occurs after Form 3753 has been issued, a Transaction Code (TC) 898 will not post to the account. A systemic offset reversal cannot be done.

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manual reversal to post.

- (3) The BPI is posted/displayed along with the TC 840/TC 846 on all output screens such as CC TXMOD, CC IMFOL, CC BMFOL, and on CC MFTRA transcripts. The BPI also shows with the pending transaction. See the following example:

TC	POSTED	AMT	CYCLE	DLN	BPI>
846	04122014	1,586.00	20141405	28221-427-92005-4	0

(4) There are ten BPIs, 0 through 9.

BPI	Validity	Eligibility for TOP Offset
0	IMF and BMF	Refund eligible for TOP Offset.
1	IMF	Bypass TOP offset for primary Taxpayer Identification Number (TIN) debts. (Used when injured spouse is secondary filer.)
2	IMF	Bypass TOP offset for secondary TIN debts. (Used when injured spouse is primary filer.)
3	IMF and BMF	Refund not eligible for TOP Offset.
4	IMF	Bypass TOP offset for all debts other than child support. Eligible for TOP offset for child support only. (Used on all refunds other than injured spouse when combat zone —C Freeze is set.)
5	IMF	Bypass TOP offset for all primary TIN debts. Bypass TOP offset for all secondary TIN debts except child support. (Used when injured spouse is secondary and combat zone —C Freeze is set.)
6	IMF	Bypass TOP offset for all secondary TIN debts. Bypass TOP offset for all primary TIN debts except child support. (Used when injured spouse is primary and combat zone —C Freeze is set.)
7	IMF and BMF	Refund eligible for TOP offset to the Office of Child Support Enforcement and an automatic bankruptcy stay is in effect or when the creditor agency has obtained relief from the automatic stay.
8	IMF	Bypass TOP offset for primary TIN's debts and may offset to the Office of Child Support Enforcement for secondary TIN when an automatic stay is in effect or when the creditor agency has obtained relief from the automatic stay. (Used when the injured spouse is secondary filer.)
9	IMF	Bypass TOP offset for secondary TIN's debts and may offset to the Office of Child Support Enforcement for primary TIN when an automatic stay is in effect or when the creditor agency has obtained relief from the automatic stay. (Used when the injured spouse is primary filer.)

- (5) **BPI (0)** indicates that any refund should offset for all TOP debts owed under the primary TIN, and secondary TIN if Filing Status 2 (FS2).

- a. It is generated on all refunds when no other condition or manual input results in the use of another BPI.
- (6) **BPI (1)** indicates that any refund should **bypass offsets to debts owed by the primary spouse** and may offset to any debts owed by the secondary spouse.
 - a. It generates on the first refund (TC 846) issued after the reversal of a TOP offset to a primary TIN's debt. This occurs when an input of TC 766 reverses a TC 898 with **no** debtor TIN. See IRM 21.4.6.4.2.9, TC 766 With OTN TOP Offset Reversal, and IRM 21.4.6.5.12.1, Input of TOP Offset Reversals Reference Number (RN) 766 with OTN, for more information.
 - b. It must be input on all manual refunds resulting from an Injured Spouse Allocation form filed by the secondary taxpayer unless combat zone, BPI (5), applies. See paragraph (10) below.
 - c. It generates on refunds (TC 846) issued after reference number (RN) 809/811 is input to release a refund when an injured spouse is the secondary.
- (7) **BPI (2)** indicates that TOP should **bypass offsets to debts owed by the secondary spouse** and may offset to any debts owed by the primary spouse.
 - a. It generates on the first refund (TC 846) issued after the reversal of a TOP offset to a secondary TIN's debt. This occurs when a TC 766 reverses a TC 898 with a debtor TIN.
 - b. It must be input on all manual refunds resulting from an injured spouse allocation form filed by the primary taxpayer, unless combat zone, BPI (6), applies. See paragraph (11) below.
 - c. It generates on refunds (TC 846) issued after reference number (RN) 808/810 is input to release a refund when an injured spouse is the primary.
- (8) **BPI (3)** indicates TOP should **bypass the refund completely**.
 - a. It generates on systemic refunds not eligible for TOP offset. See IRM 21.4.6.4.2.2, IMF TOP Offsets, and IRM 21.4.6.4.2.3, BMF and Civil Penalty TOP Offsets, for conditions that result in the generation of BPI 3 on IMF and BMF refunds.
- (9) **BPI (4)** indicates that TOP should **bypass all debts except child support for both the primary and secondary TIN**.
 - a. It generates on systemic refunds issued from modules with a combat zone —C Freeze in effect.
 - b. It generates on all CC RFUND manual refunds issued from modules with the combat zone —C Freeze in effect.
- (10) **BPI (5)** indicates that TOP should **bypass all debts for the primary TIN and all debts except child support for the secondary spouse**.
 - a. BPI 5 is required if a manual refund will be issued to an injured spouse who is secondary, from a module with a combat zone —C Freeze.
 - b. It generates on systemic refunds issued from modules with a combat zone —C Freeze in effect.

- (11) **BPI (6)** indicates that TOP should **bypass all debts for the secondary TIN and all debts except child support for the primary spouse.**
- BPI 6 is required if a manual refund will be issued to an injured spouse who is primary, from a module with a combat zone —C Freeze.
 - It generates on systemic refunds issued from modules with a combat zone —C Freeze in effect.
- (12) **BPI (7)** Indicates that TOP should **offset for all TOP debts owed under the primary TIN (and secondary TIN if Filing Status 2 (FS 2))** when the account module contains an unreversed TC 520 with closing code 60-67, 81, 83-89 with transaction date 10/17/2005 and subsequent.
- BPI 7 generates on all refunds when no other condition or manual input results in the use of another BPI and the creditor agency has obtained relief from the automatic bankruptcy stay.
- (13) **BPI (8)** Indicates that TOP should **bypass offsets to debts owed by the primary spouse** and may offset to any debts owed by the secondary spouse, and the account module contains an unreversed TC 520 with closing code 60-67, 81, 83-89 with transaction date 10/17/2005 and subsequent.
- BPI 8 generates on the first refund, TC 846, issued after the reversal of a TOP offset to a primary TIN's debt. This occurs when an input TC 766 reverses a TC 898 with **no** debtor TIN. See IRM 21.4.6.4.2.9, TC 766 with OTN TOP Offset Reversal, and IRM 21.4.6.5.12.1, Input of TOP Offset Reversals Reference Number (RN) 766 with OTN, for more information.
 - BPI 8 is a required input on all manual refunds resulting from an injured spouse form submitted by the secondary taxpayer unless combat zone, BPI (5) applies. See paragraph (10) above.

Reminder: Contact Insolvency prior to a reversal of a TOP offset for permission to release the refund either systemically or manually.

- (14) **BPI (9)** indicates that TOP should **bypass offsets to debts owed by the secondary spouse and may offset to debts owed by the primary spouse**, and the account module contains an unreversed TC 520 with closing code (cc) 60-67, 81, or 83-89 with transaction date 10/17/2005 and subsequent.
- BPI 9 generates on the first refund (TC 846), issued after the reversal of a TOP offset to a secondary TIN's debt. This occurs when an input TC 766 reverses a TC 898 with a debtor TIN.
 - BPI 9 is required input on all manual refunds resulting from an injured spouse allocation form filed by the primary taxpayer unless combat zone, BPI (6) applies. See paragraph (11) above.

Reminder: Contact Insolvency prior to a reversal of a TOP offset for permission to release the refund either systemically or manually.

- (15) CC RFUND has a field entitled "**BYPASS INDICATOR**". This indicator is normally set to "**0**". When CC RFUND is input on a Master File Tax (MFT) Code not eligible for offset, the indicator is set to "**3**". When CC RFUND is input on a module with a (—C) combat zone freeze, the indicator is set to "**4**". Refer to IRM 21.4.6.4.2.2, IMF TOP Offset, and IRM 21.4.6.4.2.3, BMF and Civil Penalty TOP Offsets, for additional information. The following validity checks are made for BPI's on CC RFUND.

- BPI (1), (2), (5), (6), (8) and (9) are not valid unless block 9 (**Injured Spouse**) is used.
- BPI (1) (2), (8) and (9) are not valid when the BPI was set to (4). BPI (5) or (6) must be used for injured spouse in combat zone
- BPI (0) and (4) are not valid when block 9(**Injured Spouse**) is used
- BPI (3) is always valid
- BPI (4), (5), or (6) are valid, given the above conditions, even when the (—C) combat zone freeze is not on the module. This allows for manual verification of Combat Zone Status.

21.4.6.4.2.2
(12-04-2014)
IMF TOP Offset

- (1) TOP offsets are made against any refund issued from MFT 29, MFT 30, MFT 31, MFT 35 and MFT 55 unless a Bypass Indicator (BPI) is generated on the TC 846 or input on a manual refund TC 840.
- (2) When married taxpayers file using the “married filing joint” status either taxpayer (or both) may have outstanding obligations that qualify for a TOP offset. As a result, there can be one or two TC 898(s) for each refund issued. TC 898(s) will display the DEBTOR-TIN for offsets to the secondary taxpayer’s debt and offsets to the primary taxpayer’s debt will not display the DEBTOR-TIN.

Note: The IRS refund file transmitted to Bureau of the Fiscal Service contains both the primary and secondary Social Security Number (TIN) on a Filing Status 2 (FS2) joint refund.

- (3) A bankruptcy —V or —W Freeze, set by the posting of TC 520, with closing code 60-67, 81 or 83-89 with a transaction date prior to 10/17/2005, generates a BPI (3) on a TC 846 issued from that module.
- (4) A combat zone —C Freeze generates a BPI (4) on a TC 846 issued from that module.
- (5) BPI (3) generates on all systemic and manual refunds issued from an individual NMF account, preventing TOP offset.

Reminder: All manual refunds from IMF accounts require the input of the appropriate BPI, except as noted in paragraph (5) above.

21.4.6.4.2.3
(12-04-2014)
**BMF and Civil Penalty
TOP Offsets**

- (1) TOP offsets are made against any refund issued from MFT 02, 03, 07, 10, 13, 34, 43, 44, 46 (Doc Code 88 only) , 52, 60, 63, 64, 77, 78 and 79, unless a BPI is systemically generated on the refund or input on a manual refund. See IRM 21.4.6.4.2.1, TOP Offset Bypass Indicator (BPI).
- (2) TOP offsets **will not** be made against refunds issued from an MFT not shown above. BPI (3) generates on all refunds from MFTs that are ineligible for TOP offset.
- (3) BPI (3) generates on all systemic and manual refunds issued from a business NMF account to prevent a TOP offset.

21.4.6.4.2.4
(09-13-2019)
**Child Support TOP
Offsets**

- (1) The Department of the Treasury (TOP) Bureau of the Fiscal Service (BFS), amended its regulation governing the offset of tax refund payments to collect past-due child support obligations. This change limits the time in which Treasury may reverse a tax refund offset to collect a delinquent child support debt to **six months**. The change does **not** apply to the processing of Form 8379 Injured Spouse Allocation. For telephone inquiries, see IRM 21.4.6.5.1 Taxpayer Inquiries on TOP Offsets.
- (2) To address this change, the IRS must limit the time to reverse a child support offset to 5 months (150 days) from the refund payment date. To determine the date of offset, use the RFND-PYMT-DT associated with the TC 846/840. The 5-month limit allows for internal system processing of the offset reversal request (TC 766 with an Offset Trace Number - OTN).
- (3) Offsets that occur during processing year 2016 and beyond will post with the Agency and Sub-Agency code. If the Agency code is "1" or "2", the offset is for a delinquent child support debt and the 5 month limitation rule applies except for a Form 8379, Injured Spouse Allocation. See Document 6209, Section 5, for Office of Child Support Enforcement Agency and Sub-Agency codes.
- (4) Offsets due to delinquent child support occurring during processing years 2012-2015 will be identified by the posting of Transaction Code (TC) 971 Action Code (AC) 126. The Agency Code, OTN, and offset amount will be identified in the TC 898, MISC field.

Note: Offsets due to delinquent child support prior to 2012 will not have any indicators identifying which agency the refund offset to.

- (5) To determine whether an offset to child support can be reversed, use the following chart:

If	And	Then
1) Processing Form 8379, Injured Spouse Allocation	The Agency Code is 01 and/or 02	Reverse the offset(s). The new regulation does not apply.

2) Processing any case other than injured spouse	The posted offset(s) is to Agency Code 02 and is more than 5 months old	<ul style="list-style-type: none">• Do not reverse the offset.• Treat offset as if it was refunded to the taxpayer. <p>Note: For ID Theft cases with fraudulent returns follow procedures found in IRM 21.4.6.4.2.12, TOP Offsets Involving ID Theft and ID Theft with Fraudulent Returns.</p>
3) Processing any case other than injured spouse	The posted offset(s) is to Agency Code 02 and is 5 months old or less	Reverse the offset(s). For ID Theft cases with fraudulent returns follow procedures found in IRM 21.4.6.4.2.12 TOP Offsets Involving ID Theft and ID Theft with Fraudulent Returns.

4) Processing any case other than injured spouse	The posted offset is to Agency Code 01 and is more than 5 months old	<ul style="list-style-type: none">Reverse the offset(s). and close case. For ID Theft cases with fraudulent returns follow procedures found in IRM 21.4.6.4.2.12 TOP Offsets Involving ID Theft and ID Theft with Fraudulent Returns.Bureau of the Fiscal Service (BFS) will forward the reversal request to Child Support, pending conformation with the states that the funds are still available. Note: If BFS cannot recover the offset, the reversal request will be rejected.If BFS rejects the reversal request, you will receive notification from the TOP Liaison Office, for any action needed.
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5) Processing any case other than injured spouse	The posted offset is to Agency Code 01 and is 5 months old or less	Reverse the offset(s-). For ID Theft cases with fraudulent returns follow procedures found in IRM 21.4.6.4.2.12 TOP Offsets Involving ID Theft and ID Theft with Fraudulent Returns.
6) Processing any case other than injured spouse.	The Agency Code is any code other than 01 and/or 02	Reverse the offset(s).

- (6) For any ID Theft case that cannot be reversed, refer to IRM 21.4.6.4.2.12.

21.4.6.4.2.5
(10-01-2013)

TOP Offset Tolerance

- (1) Any refund under \$25 is not offset by TOP. This tolerance applies to both IMF and BMF.

21.4.6.4.2.6
(02-01-2016)

TOP Offset Notice

- (1) The Bureau of the Fiscal Service issues a TOP offset notice when a taxpayer's refund is offset for child support, Federal non-tax debt, a state tax debt, or unemployment compensation debt.

If	And	Then
Refund is requested as a direct deposit or paper check	Part or all of refund is offset	The Bureau of the Fiscal Service generates a notice on the day they process the payment. For example: If Bureau of the Fiscal Service receives a payment on 09/10/2013 with a payment date of 09/13/2013 the notice will go out before or by the payment date for both paper check and direct deposit.
Refund is issued as paper check	Part of refund was offset	Notice is sent as an attachment to paper refund.
Refund was to be issued as paper check	All of refund was offset	Notice is sent by itself the day check was to be mailed.

- (2) The notice of offset informs the taxpayer that their Federal tax refund was offset for a debt owed to an agency(s). The notice details are as follows:
- Address and phone number of the agency(s)
 - Agency(s) receiving the offset
 - Amount of each offset
 - Bureau of the Fiscal Service offset trace number (this is not the same as the offset trace number posted with TC 898)
 - Debtor's TIN
 - Injured spouse rights
 - Payee Name

- Payment Agency Name
- Payment Amount before Offset
- Phone number of the TOP Call Center at Bureau of the Fiscal Service

(3) If taxpayer inquires of an existence/non-existence of a TOP debt at Bureau of the Fiscal Service, **do not** use the Agency or Sub Agency codes found on CC TXMOD or CC IMFOL. Refer the taxpayers to the TOP Call Center at Bureau of the Fiscal Service at 800-304-3107, Telecommunication Devices for the Deaf (TDD) 800-877-8339 for information. See IRM 21.4.6.5.1, Taxpayer Inquiries on TOP Offset.

21.4.6.4.2.7
(02-01-2016)

TOP Offset Research

- (1) TOP offsets and related transactions post to the tax module where the refund creating the offset originated.
- (2) The following Transaction Codes (TC) are used solely for TOP offsets:
- TC 898 (TOP offset record generated by Bureau of the Fiscal Service)
 - TC 971 AC 598 (manual input of TOP offset record which is used when the TC 898 record, generated by Bureau of the Fiscal Service, is deleted in error)
 - TC 766 with Offset Trace Number (OTN) (the IRS reversal of a TOP offset)
 - TC 899 (TOP offset reversal record generated by Bureau of the Fiscal Service) See IRM 21.4.6.4.2.10, TC 899, Reversal or Agency Refund of TOP Offset, for the record type descriptions.
 - TC 971 AC 599 (manual input of TOP offset reversal record which is used when the TC 899 Type 1, 2, 3 or 4 record, generated by Bureau of the Fiscal Service, is deleted in error)
- (3) The IRS personnel do not have access to the TOP debtor database and cannot tell if a debt exists before a TOP offset occurs.

Exception: In instances involving offset bypass refunds, the IRS personnel are required to contact Bureau of the Fiscal Service for debt information before issuing a refund. See IRM 21.4.6.5.5, Hardship Refund Request.

(4) Offsets that occur during processing year 2016 and beyond will post with the Agency and Sub-Agency Code at the beginning of the Offset Trace Number (OTN). If the Agency Code is "1" or "2" offsets due to delinquent child support occurring during processing years 2012-2015 will be identified by the posting of Transaction Code (TC) 971 Action Code (AC) 126. The purpose of the Agency/Sub Agency Code is for internal use only. Therefore, do not disclose this information to the taxpayer.

Note: Do not use the Agency or Sub Agency Codes found on CC TXMOD or CC IMFOL for processing an injured spouse allocation, nor for advising the taxpayer of the existence/non-existence of a TOP debt at Bureau of the Fiscal Service.

21.4.6.4.2.8
(02-01-2016)
TC 898, TOP Offset

- (1) A TOP offset appears on Command Code (CC) TXMOD as a Transaction Code (TC) 898 with an Offset Trace Number (OTN), the offset amount is shown as OFFST-AMT. If the secondary spouse owes the debt, the debtor TIN will also be shown DEBTOR-TIN. If there is no DEBTOR-TIN shown, the taxpayer with the primary TIN is the debtor.
- (2) A TC 971 AC 598 will appear on TXMOD with the OTN shown as MISC field and the offset amount will be shown as MEMO-MONEY-AMT. The debtor TIN (primary or secondary) will be shown as XREF-TIN

Reminder: TC 971 AC 598 is a manual input of a TOP offset record which is used when the TC 898 has been deleted in error.

- (3) A TC 898 or TC 971 AC 598 must be netted against the refund it came from to determine the actual refund amount that Bureau of the Fiscal Service sends or deposits for the taxpayer.
- (4) Each TC 898 or TC 971 AC 598 can represent an offset to one or more agencies for the same TIN.
- (5) There can be one or two TC 898(s) or TC 971 AC 598(s) per refund.
 - a. The Refund for both taxpayers on a joint return (FS2) could be offset for separate debts that are reported to the IRS and shown as separate TC 898(s) or TC 971 AC 598(s).
 - b. Both offsets must be subtracted from the original refund amount, TC 840/TC 846, to determine how much of the refund the taxpayers received.
- (6) This example shows a TOP offset to the primary spouse's debt for \$1000. The taxpayer was sent a refund of \$586 (\$1586 - \$1000). If the DEBTOR-TIN was present and filed with the secondary spouse's TIN, the offset would have been to the secondary spouse's debt.

Example of a TOP Offset

TC	POSTED	AMT	CYC	DLN	OTN
846	03122011	1,586.00	20111005	28221-061-32956-1	BPI>0
898	03122011		20111105	28277-061-32956-1	
				OTN-CD>10733-40509	
				OFFST-AMT>1,000.00	

- (7) The TC 898 or TC 971 AC 598 TOP offset is dated the same as the prior posted TC 840 from which it originated. The TC 898 Document Locator Number (DLN) is the same as the prior TC 840 from which it originated.
- (8) A TC 898 or TC 971 AC 598, originating from a computer-generated refund, will match the date of the TC 846. A TC 898 originating from a computer-generated refund, TC 846, has the same DLN except for the document code which is changed to 77.
- (9) The OTN is an "offset trace number" used by the IRS and the Bureau of the Fiscal Service to "connect" offsets with related reversals and the refund from

which they came. It is 10 characters in length separated by a hyphen in the middle. The OTN begins with a "1" if the offset was for a primary taxpayer and a "2" if the offset was for a secondary taxpayer.

- (10) A TC 898 with document code 45, TOP offset of manual refund, re-sequences for 10 cycles, if TC 840 with the same DLN is not posted. After 10 cycles it unpost as Unpostable Code (UPC) 137 or UPC 437, RC 1.
- (11) See IRM 21.4.6.5.23.2, UPC 137 or UPC 437.
- (12) In some instances, a TC 898 will unpost as UPC 151 RC 0 due to a name control mismatch when Bureau of the Fiscal Service returns the record to . See IRM 21.4.6.5.23.3, UPC 151.

21.4.6.4.2.9
(02-01-2016)
**TC 766 with OTN TOP
Offset Reversal**

- (1) After an offset occurs, there are situations when we ask the Bureau of the Fiscal Service to reverse it. See IRM 21.4.6.5.7, Reasons to Reverse TOP Offset. For offsets involving child support, see IRM 21.4.6.4.2.4, **Child Support TOP Offsets**.
- (2) A TOP offset reversal posts as a TC 766 with an Offset Trace Number (OTN) that is the same as the OTN of the TC 898 TOP offset being reversed. See IRM 21.4.6.5.12.1, Input of TOP Offset Reversals Reference Number (RN) 766 with OTN.
- (3) The TC 766 is a credit to the taxpayer's account and posts with an actual money amount. It creates the IRS accounts receivable which is reimbursed by Bureau of the Fiscal Service through the reversal of the agency offset.
- (4) The TC 766 posts with the return due date or return received date, whichever is later.

Exception: The TC 766 posts with the date of the refund creating the offset when that refund includes credit interest. See IRM 21.4.6.5.10.4, Injured Spouse Refund TOP Offset, for instructions on computing credit interest when a TOP Offset that included credit interest is reversed and the subsequent refund will be computer generated.

- (5) A TC 766 reversing a TC 898 with an OTN starting with 1 (indicates primary taxpayer debt) results in the generation of a TC 846 with BPI 1. This prevents a TOP offset to any debts owed by the primary filer.
- (6) A TC 766 reversing a TC 898 with an OTN starting with 2 (indicates secondary taxpayer debt) results in the generation of a TC 846 with BPI 2. This prevents a TOP offset to any debts owed by the secondary filer.
- (7) The following example shows a posted TC 766, TOP offset reversal, for \$550.00, resulting from an injured spouse allocation form filed by the secondary taxpayer. It reversed the prior posted TC 898 with the same OTN and no DEBTOR-TIN. The refund generated from this reversal has a BPI of 1. This allows TOP to offset the refund to any debt owed by the secondary spouse and it prevents TOP from offsetting the refund to any debt owed by the primary spouse.

Caution: Only allow the TC 766 posting to generate the TC 846 when the injured spouse refund will be issued in both names. Otherwise use a Hold Code

2 and release the refund using RN 810/811 or issue a manual refund if required. See IRM 21.4.6.5.10.6, Issuing the Injured Spouse Refund.

Example of a TOP Offset Reversal for Injured Spouse Allocation

TC	POSTED	AMT	CYC	DLN	OTN
846	03062012	1,586.00	20121209	28221-067-92005-2	BPI>0
898	03062012		20121210	28277-067-92005-2	
			OTN>12345-67890		
	OFFST-AMT>1,000.00				SPLIT-REFUND-CD>0
290	04192012	.00	20121214	28254-109-00001-2	
	ADJ-RSN-CD>86				
766	04152012	550.00-	20121214	28254-109-00001-2	
			OTN>12345-67890		
846	04192012	550.00	20121214	28254-109-00001-2	BPI>1

- (8) A TC 766 TOP offset reversal may post to the taxpayer's account and still be denied by Bureau of the Fiscal Service in whole or in part when:
- The agency issued a refund of the TOP offset and the IRS did not have a TC 899, type 2, posted yet.
 - Bureau of the Fiscal Service is initiating a TOP offset reversal, TC 899, type 1, resulting from a returned or undelivered refund.

See IRM 21.4.6.5.12.3, TC 766 Reject Listing, for additional information.

- (9) TC 766(s) that are rejected in whole or in part by Bureau of the Fiscal Service are output on a weekly Bureau of the Fiscal Service TC 766 Reject Listing and provided to the TOP Liaison Office for resolution.

Caution: NEVER input a TC 767 to reverse a TC 766 with an OTN. Only the TOP Liaisons are authorized to input the TC 767.

21.4.6.4.2.10
(02-13-2015)

**TC 899, Reversal or
Agency Refund of TOP
Offset**

- The Transaction Code (TC) 899 is generated by input from Bureau of the Fiscal Service (BFS) and the participating agencies to report an action taken on an offset. The TC 899 posts to the tax module with a type code (OFFST-REC-TYPE), amount, and the OTN of the TOP offset with which it is associated.
- There are four types of TC 899:
 - Type 1 - Bureau of the Fiscal Service TOP offset reversal
 - Type 2 - Agency refund of TOP offset
 - Type 3 - IRS Manual Reversal Request or Bureau of the Fiscal Service refund of TOP offset.

Caution: When a Manual Reversal Request is submitted (identified as PENDMRR in the IDRS control base activity), you must wait for the TC 700 credit to post to the account when there is a TC 899, Type 3 present.

Exception: A TC 899 Type 3 is also used to correct an account due to a BFS or the IRS processing error. If **PENDMRR** or **MRRTONHQ** is not present in the IDRS case control activity, then the TC 899 Type 3 is a BFS/IRS correction. There **will not** be a corresponding TC 700 with this type of reversal. Work the case.

- Type 4 - Agency refund reversal

Note: TC 971 AC 599 with a Type 1,2,3 or 4, represents a manual input of an erroneously deleted TC 899 Type 1,2,3 or 4 transaction. TC 971 AC 599 must be considered when netting the TOP offset amount.

- (3) TC 899, type 1, with negative money amount, is used by Bureau of the Fiscal Service to report a TOP offset reversal. Bureau of the Fiscal Service generates this transaction when a partial offset occurs and the remainder is refunded, but later returned. Reasons for this include refund checks that are undeliverable, returned, uncashed after 13 months, lost, or stolen and require re-issuance.
- (4) TC 899, type 2, with negative money amount, is used by the agencies participating in TOP to report a refund of a TOP offset.
 - a. The agency is required to make the refund payable in the name or names that were on the IRS refund file at the time the original refund and TOP offset occurred.
 - b. The amount may be for all or part of the TC 898 with the same OTN.

Reminder: A TC 898 may consist of two or more offsets to different agencies. Therefore, the TC 899, type 2 amount may only be for part of the TOP offset.

- (5) TC 899, type 3, with negative money amount, is used by Bureau of the Fiscal Service for the IRS Manual Reversal Request and for a refund issued by Bureau of the Fiscal Service.

Caution: When a Manual Reversal Request has been submitted (identified as PENDMRR in the IDRS control base activity), you must wait for the TC 700 credit to post to the account when there is a TC 899, Type 3 present.

Note: A Type 3 is also used to correct an account due to a BFS or the IRS processing error. If there is no PENDMRR or MRRTONHQ in the IDRS case control activity, then the TC 899 Type 3 is a BFS/IRS correction. There **will not** be a corresponding TC 700 with this type of reversal.

Bureau of the Fiscal Service is required to make the refund payable in the name or names that were on the IRS entity and refund file at the time the original refund and TOP offset occurred.

- a. The amount may be for all or part of the TC 898 or TC 971 AC 598 with the same OTN.

- (6) TC 899, type 4, with positive money amount, is used by the agencies participating in TOP to correct a previously reported refund of a TOP offset. TC 899 type 4 is netted against a prior TC 899, type 2, with same OTN, which is the true amount of the agency refund remaining.
- (7) In the following example, a TC 899, type 2, agency refund posted for \$450.00. The agency refunded the remainder of the TOP offset originating from the TC 846 dated 03/06/2012 to the taxpayer. There is now no remaining TOP offset and the taxpayers received the following refunds totaling \$1,586.00.
- \$586.00 dated 03/06/2012 (TC 846 \$1,586.00 — TC 898 \$1,000.00)
 - \$550.00 to the injured spouse dated 04/19/2012
 - \$450.00 from the agency that received the offset

Example:

TC	POSTED	AMT	CYC	DLN	OTN
846	03062012	1,586.00	20121209	28221-067-92005-2	BPI>0
898	03062012	.00	20121210	28277-067-92005-2	OTN>12345-67890
OFFSDT-AMT>1,000.00					XREF>OTN- CD>12345-67890
290	04192012	.00		200114 29254-109-00001-2	
ADJ-RSN-CD>86 ...					
766	04152012	550.00-	20121214	28254-109-00001-2	OTN-CD>12345-67890
846	04192012	550.00	20121214	28254-109-00001-2	BPI>1
899	03062012	.00	20121222	28221-067-92005-2	
OFFST-AMT> 450.00-OFFST-REC-TYPE>2					OTN-CD>12345-67890

- (8) See IRM 21.4.6.5.23.2, UPC 137 or UPC 437, for TC 899 UPC 137 or UPC 437 resolution.
- (9) In some instances, a TC 899 will unpost due to an erroneously deleted TC 898. See IRM 21.4.6.5.23, TOP Unpostable Conditions, for instructions.

Note: You may see a TC 971 AC 599 with Type 1, 2, 3 or 4 which represents the manual input of an erroneous deleted TC 899. TC 971 AC 599 must be considered when netting the TOP offset amount.

21.4.6.4.2.11
(02-01-2016)

Netting TOP Offsets and Reversals

- (1) The net TOP offset amount is needed to:
- a. Inform the taxpayer of the actual amount offset from their refund and still outstanding.
 - b. Determine the amount of offset available for reversal.
- (2) You must take into consideration all TOP transaction codes with the same OTNs to determine the net TOP offset amount. Disregard the signs (+ or -) of each transaction code when completing the steps below:

1. Determine the TOP offset, TC 898 or TC 971 AC 598 and the OTN of the offset that is to be netted.
2. Subtract from the TC 898 or TC 971 AC 598: all TC 899(s) or TC 971 AC 599(s), type 1, type 2, or type 3, with the same OTN.
3. Subtract from the TC 898 all TC 766(s) with the same OTN.
4. Add to the TC 898 or TC 971 AC 598: all TC 899(s) or TC 971 AC 599(s), type 4, with the same OTN.
5. Add to the TC 898 all TC 767(s) with the same OTN.

Reminder: Be sure to consider all offsets, including offset to child support, to determine whether the offset can/cannot be reversed, see IRM 21.4.6.4.2.4, Child Support TOP Offsets, for more information.

- (3) Consider all unpostable conditions before reversing TOP offsets. You must ensure all unpostables (TC 898 or TC 899 types 1, 2, 3 or 4) are resolved before reversing the TOP offset amount for TOP transactions with the same OTN. See IRM 21.4.6.5.23, TOP Unpostable Conditions.

Example: There is a TC 898 for \$1,500.00 on the account. A TC 899 type 2 (agency refund) for \$45.00 is posted. There is an unpostable TC 899 type 4 (agency offset reversal) for \$45.00 and then there is another unpostable TC 899 Type 1 (Bureau of the Fiscal Service TOP offset reversal) for \$1,500.00 (the full amount of the TC 898). You must take into consideration all TOP transaction codes with the same OTNs. To correct the account, you will request Unpostables to correct the TC 899 Type 4 first (this would negate the TC 899 Type 2 previously posted) and then request unpostables to correct the TC 899 Type 1 for \$1,500.00. Once the unpostable conditions are corrected, the formula to Net the TOP Offset amount is:

Net TOP Offset Amount for Above Example

TC 898 (\$1,500.00) – TC 899 types 2 (\$45.00) + TC 899 type 4 (\$45.00), – TC 899 type 1 (\$1,500.00) =
0

Example: The OTN must be the same for all these transactions when computing the net TOP offset amount.

- (4) Written as a formula, the above steps appear as follows:

Net TOP Offset Amount

TC 898 or TC 971 AC 598 – TC 899 or TC 971 AC 599 types 1, 2, or 3 – TC 766s + TC 899 or TC 971 AC 599 type 4 + TC 767s = Net TOP Offset Amount

Note: The OTN must be the same for all these transactions when computing the net TOP offset amount.

Exception: In some instances, the TC 898 was erroneously deleted which required a manual reversal request to bring back the TOP Offset. You may see

a TC 971 AC 598 posted for audit trail purposes only. A TC 700 posts to the account for the TOP Offset reversal amount. You **must** consider the TC 700 when netting the TOP Offset amount. See IRM 21.4.6.5.12.2, Manual Reversal of TOP Offset for more information.

21.4.6.4.2.12
(09-13-2019)

TOP Offsets Involving ID Theft and ID Theft with Fraudulent Returns

- (1) When working ID Theft case(s) or when the case involves a fraudulent return that includes an offset to Child Support (Agency Code 1 or 2), refer to the chart below for processing offset reversals. See IRM 21.4.6.4.2.4, **Child Support TOP Offset**, for a general overview of the new child support rule.

If	And	Then
1) Identity Theft or Fraudulent Return	Processing Form 8379, Injured Spouse Allocation, for Agency Code 1 or 2	Reverse the offset(s).
2) Identity Theft or Fraudulent Return	The posted offset(s) is more than 5 months old for Agency Code 2	<ul style="list-style-type: none"> Offset(s) cannot be reversed. Follow procedures in (2) below, if appropriate.
3) Identity Theft or Fraudulent Return	The posted offset(s) is 5 months old or less for Agency Code 2	Reverse the offset(s).
4) Identity Theft or Fraudulent Return	The posted offset is more than 5 months old for Agency Code 1	<ul style="list-style-type: none"> Reverse the offset(s). BFS will forward the reversal request to Child Support. If BFS cannot recover the offset, the TOP Liaison Office will contact the initiator of the reversal request within 4-6 weeks of input. Follow procedures in (2) below, if appropriate.
5) Identity Theft or Fraudulent Return	The posted offset is 5 months old or less for Agency Code 1	Reverse the offset(s).

6) Identity Theft or Fraudulent Return	The Agency Code is other than 1 or 2.	Reverse the offset(s).
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- (2) Use Command Code (CC) CSO58, to transfer offsets from the taxpayer's account when there is a child support offset that cannot be reversed due to the 6-month regulation change. The new command codes mirror existing command code IDT58. Information regarding the input for the new command code can be found in IRM 2.4.61.10, Command Code CSO58 - Request Formatted Input Screen.

Caution: Input a TC 570 to stop any erroneous refund from occurring prior to the posting of the adjustments.

- (3) Research and consider the following transactions on the module before inputting any adjustment for a TOP offset on a taxpayer's account:

- TC 898,
- TC 899 (types 1, 2, 3 or 4),

Caution: If a TC 899 Type 2 (agency refund) is on the account, see IRM 21.4.5.6.1, Account Actions for Category D Erroneous Refunds.

- TC 766 with OTN,
- TC 767 with OTN,
- TC 700 (manual reversal requests),
- TC 971 AC 126 (Agency Code 1 or 2 for 2012-2015),
- TC 971 AC 598, and
- TC 971 AC 599.

Refer to IRM 21.4.6.4.2.11, Netting TOP Offsets and Reversals and IRM 21.4.6.5.12, TOP Offset Reversals with Adjustments, for additional information.

- (4) Ensure that there are no unpostable TC 898 or TC 899 transactions on the account. If an unpostable condition exists, the unpostable condition must be resolved and considered when netting the amount of the TOP offset reversal. See IRM 21.4.6.5.23, TOP Unpostable Conditions, and IRM 21.5.4.2, Resolving Unpostables.

Caution: An unposted (UPC) or deleted (DU) TC 898 or TC 899 with an OTN indicates a TOP offset or TOP offset reversal has occurred and must be considered for netting purposes when determining the correct reversal amount.

- (5) Use the following chart to determine when it is necessary to do a TOP offset reversal:

Caution: If the case meets "No Move" criteria, disregard any instructions to place the account in debit balance and only submit the manual reversal request to the TOP Liaison.

Reminder: Before reversing any child support offsets, see IRM 21.4.6.4.2.4, Child Support TOP Offsets and IRM 21.4.6.4.2.12 (1) & (2), TOP Offsets Involving ID Theft and ID Theft with Fraudulent Returns, above. If you cannot determine if the offset is child support and if it can be reversed,

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IF	THEN
<p>1) The TC 846 and TC 898 TOP offset are the same. Reminder: There is no “lost refund”.</p>	<ol style="list-style-type: none"> 1. Zero out the account or math verify and adjust to the good return if one is present on the account, use HC 4. Reminder: See IRM 21.4.6.4.2.11, Netting TOP Offsets and Reversals. Reverse the entire TOP offset if available. Caution: you must take into consideration all TOP transaction codes with the same OTNs to determine the TOP offset amount available to be reversed. 2. Input the TOP Offset Reversal, TC 766 with OTN. Use HC 3, RC 087, and PC 8 when applicable and use the appropriate post delay code. See IRM 21.4.6.5.12.1, Input of TOP Offset Reversals TC 766 with OTN. Note: If issuing a manual refund and/or processing a full account back-out, input HC 4. 3. Complete ID Theft case processing. Reminder: Ensure no credit is left on the account.
<p>2) The TC 846 and TC 898 are NOT the same.</p>	<ol style="list-style-type: none"> 1. Zero out the account or math verify and adjust to the good return if one is present on the account, use HC 4. Reminder: See IRM 21.4.6.4.2.11, Netting TOP Offsets and Reversals. Reverse the amount of the entire TOP offset if available. Caution: You must take into consideration all TOP transaction codes with the same OTNs to determine the TOP offset amount available to be reversed. Note: If issuing a manual refund and/or processing a full account back-out, input HC 4. 2. Input TOP Offset Reversal, TC 766 with OTN. Use HC 3, RC 087 and PC 8 when applicable and use the appropriate post delay code. Refer to IRM 21.4.6.4.2.11, Netting TOP Offsets and Reversals. 3. Complete ID Theft case processing. Reminder: Ensure no credit is left on the account.

IF	THEN
<p>3) There is a posted TC 740 or TC 841 and the account shows TC 899 type 1 with the same OTN of the posted TC 898.</p> <p>Reminder: There is no "lost refund".</p> <p>Caution: A TC 899 Type 1 may not appear on the account. Ensure there is no open TC 899 Type 1 unpostable. If an unpostable condition exists, the unpostable condition must be resolved. See paragraph (2) above.</p>	<ol style="list-style-type: none"> 1. Do not input a TOP offset reversal. See IRM 21.4.6.4.2.10(3), TC 899, Agency Refund of TOP Offset. 2. Complete ID Theft case processing. <p>Caution: The account may contain a credit balance due to the undeliverable or cancelled check TC 740/TC 841), see IRM 21.4.6.5.22, Returned Refund Check.</p>
<p>4) The TOP offset is over 6 years old AND the TC 846 and TC 898 are the same.</p> <p>Reminder: There is no "lost refund".</p> <p>Caution: If TXMOD shows an open base with MRR/NHQ do not submit request for a manual reversal. A request was previously submitted.</p>	<p>the TOP/DMF Manual Reversal Request Form. After preparing this form, per the instructions on the form, return it to the liaison and the procedures will be initiated. See IRM 21.4.6.5.12.2, Manual Reversal of TOP Offset.</p> <ol style="list-style-type: none"> 2. Adjust the account to put the account in debit balance when processing a full back-out or adjust to the good return if one is present on the account, use HC 4. <p>Caution: If case meets no move criteria disregard any instructions to place the account in debit balance, and only submit the manual reversal request to the TOP Liaison.</p> <ol style="list-style-type: none"> 3. Take no further action on the account until the manual reversal request has completed. <p>Note: When a manual reversal request is submitted (identified as PNDMRR in the IDRS control base activity), you must wait for the TC 700 credit to post to the account when a TC 899 Type 3 is present, see IRM 21.4.6.4.2.10, Reversal or Agency Refund of TOP Offset. 4. Complete ID Theft case processing. <p>Reminder: Ensure no credit is left on the account.</p> <p>Note: A manual reversal request is needed if the TC 898 is either missing or deleted in error.</p> </p>

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IF	THEN
<p>5) The TOP offset is over 6 years old AND the TC 846 and TC 898 are NOT the same.</p> <p>Reminder: There is a partial lost refund when the TC 846 and the TC 898 are NOT the same.</p> <p>Caution: If there is an open base with MRR/NHQ do not submit request for a manual reversal. A request was previously submitted.</p>	<p>#</p> <p>the TOP/DMF Manual Reversal Request Form. After preparing this form, per the instructions on the form, return it to the liaison and the procedures will be initiated. See IRM 21.4.6.5.12.2, Manual Reversal of TOP Offset.</p> <p>Reminder: Do not input a TOP offset reversal when the 23C date is over 6 years old. Doing so will create an UPC 134, see IRM 21.4.6.5.23, TOP Unpostable Conditions.</p> <p>Reminder: DO NOT net the refund amount. Reverse the amount of the entire TOP offset if available. See IRM 21.4.6.4.2.11, Netting TOP Offsets and Reversals.</p> <p>2. Refer to IRM 21.4.6.4.2.11, Netting TOP Offsets and Reversals, to determine the amount of offset available for reversal prior to processing a full account back out to put the account into debit balance.</p> <p>Caution: If case meets no move criteria disregard any instructions to place the account in debit balance, and only submit the manual reversal request to the TOP Liaison.</p> <p>3. Take no further action on the account until the manual reversal request has completed.</p> <p>Note: When a manual reversal request is submitted (identified as PNDMRR in the IDRS control base activity), you must wait for the TC 700 credit to post to the account when a TC 899 Type 3 is present, see IRM 21.4.6.4.2.10, TC 899, Reversal or Agency Refund of TOP Offset.</p> <p>4. Complete ID Theft case processing.</p> <p>Note: Ensure no credit is left on the account.</p> <p>Note: A manual reversal request is needed if the TC 898 is either missing or deleted in error.</p>

Caution: If a manual account transfer (TC 370/TC 400) is necessary, input the TOP offset reversal and transfer the credit to excess collections before moving the account. See IRM 25.23.4.9.1.4, Moving Specific Year Account Information.

21.4.6.5
(01-01-2001)
**Refund Offset
Procedures**

- (1) This section discusses procedures for refund offsets. Inquiries regarding offsets may originate from the non-receipt or reduction of a refund, from the receipt of an offset notice, or from other issues on an account that may cause an erroneous offset.
- (2) It is important to first research the taxpayer's account to verify what type of offset(s) occurred before attempting to answer questions about an offset.

21.4.6.5.1
(01-21-2022)

**Taxpayer Inquiries on
TOP Offset**

- (1) The taxpayer is sent a notice of offset by Bureau of the Fiscal Service for Treasury Offset Program offsets. Inquiries relating directly to the TOP offset are referred to the agency listed on the notice, or to the TOP Call Center at 800-304-3107 or, TDD 800-877-8339, if a notice was not received. See IRM 21.4.6.4.2.6, TOP Offset Notice, for notice information. Also see *The Source for Telephone Numbers* on SERP for the hours of operation. Do not use the Agency or Sub Agency Codes found on CC TXMOD or CC IMFOL for processing an injured spouse allocation, nor for advising the taxpayer of the existence/non-existence of a TOP debt at Bureau of the Fiscal Service. See IRM 21.4.6.4.2.4, **Child Support TOP Offsets**. You must input a History Item when you are referring the taxpayer to another agency for resolution. See IRM 21.2.2.4.2.1, IDRS History Items and Account Inquiry.
- (2) The following tables can assist you in resolving taxpayer inquiries related to TOP offsets, TC 898 (TOP offsets) or TC 971 AC 598 (manual input of TOP offset). Use Letter 3179C, Refund Offset to Treasury Offset Program (TOP) and Injured Spouse Inquiries, when responding to an inquiry in writing.
- (3) For taxpayer inquiries regarding **Refund Discrepancies**:

IF	AND	THEN
1) Taxpayer claims they didn't receive a refund of overpayment.		<ol style="list-style-type: none"> 1. Advise the taxpayer to allow five calendar days for direct deposit and 4 weeks for paper check to arrive. 2. Provide the amount of the TC 846 issued. 3. Advise the taxpayer to contact the agency on the notice if an offset occurs.
2) Taxpayer claims they didn't receive a refund of overpayment	there is a TC 898 or TC 971 AC 598 on the account,	Determine if any of the refund amount was issued per IRM 21.4.6.4.2.8 TC 898, TOP Offset, and advise the taxpayer of the refund.

IF	AND	THEN
3) Taxpayer claims their refund was less than expected, amount agrees with TC 846/840.		Research to resolve the discrepancy (processing error, math errors, or other tax or TOP offset). If applicable, refer taxpayer to TOP Call Center at 800-304-3107, TDD 800-877-8339 for offset information.
4) Taxpayer claims their refund was less than expected, amount disagrees with TC 846/840,	no TOP offset has occurred,	Research to resolve the discrepancy (processing error, math errors, or other tax offset).
5) Taxpayer claims their refund was less than expected, amount disagrees with TC 846/840,	a TOP offset has occurred and the TOP offset notice was not received.	Refer Taxpayer to TOP Call Center above for offset information.
6) Taxpayer claims their refund was less than expected, amount disagrees with TC 846/840,	a TOP offset has occurred and the TOP offset notice was received.	Refer Taxpayer to agency on notice.
7) Taxpayer is aware of offset made, but claims the remainder of the refund not received.		Advise taxpayer to allow five calendar days for direct deposit or 4 weeks for paper check to arrive. If not received, send taxpayer Form 3911, Taxpayer Statement Regarding Refund, to begin trace of refund check or input CC CHKCL. See IRM 21.4.2.4, Refund Trace Actions.
8) Taxpayer claims agency has no record of offset.		Refer taxpayer to TOP Call Center above for offset verification.

(4) **For Taxpayers, Disputing the Debt or TOP Offset:**

If	And	Then
1) Taxpayer inquiries about existence of a debt		Refer taxpayer to agency that notified them of the debt, or if unknown, refer taxpayer to TOP Call Center at 800-304-3107, TDD 800-877-8339.
2) Taxpayer claims they do not owe the debt or they are not the debtor		Refer taxpayer to agency on the due process offset notice, or if unknown, to TOP Call Center above (agency must determine who owes debt and issue any subsequent refund).
3) Taxpayer claims debt was discharged in bankruptcy	1. The IRS was not aware of bankruptcy prior to issuing refund	1. Refer taxpayer to agency on offset notice, or if unknown, to TOP Call Center above (agency must issue refund). Transfer insolvency calls to the Automated Call Distributor (ACD) = 92318 or the Infrastructure Upgrade Project (IUP) = 1618.
	2. The IRS was aware of bankruptcy and should have placed a BPI 3 on refund	2. Refer case to Insolvency. They may request that you reverse TOP offset and issue a refund with BPI 3.
4) Taxpayer is requesting a refund due to hardship and	1. Offset already occurred	1. Refer taxpayer to agency on notice. Advise the taxpayer that the IRS cannot bypass a completed TOP offset for a hardship. Review the return and determine if the taxpayer can get relief as an "Injured Spouse" and refer them to Form 8379, Instructions.
	2. Offset has not occurred	2. See IRM 21.4.6.5.5, Hardship Refund Request. Note: /TAS does not have the authority to bypass a TOP debt.

(5) For taxpayers inquiring about **Other Issues:**

If	Then
1) Taxpayer indicates Form 8379, Injured Spouse Allocation, was filed	Initiate procedures to verify offset and receipt of Form 8379. See IRM 21.4.6.5.2, Injured Spouse Inquiries.
2) Taxpayer is requesting agency contact information	Refer taxpayer to TOP Call Center at 800-304-3107, TDD 800-877-8339, for agency address and phone number.
3) Taxpayer is unable to resolve problem through contact with office of creditor agency listed on offset notice	Refer taxpayer to TOP Call Center, they may provide a more helpful contact.

21.4.6.5.2

(10-01-2023)

Injured Spouse Inquiries

- (1) An injured spouse may contact the IRS before or after an offset occurs. Often, the spouse is aware that an offset will take place and wants to know how to get their share of the refund. The spouse may also call about the injured spouse Form 8379, Injured Spouse Allocation, rights which are provided in the Bureau of the Fiscal Service offset notice.
- (2) When the taxpayer calls concerning their injured spouse allocation, TC 150 with Blocking Series (BS) 92 or TC 971 Action Code (AC) 071, use the following chart:

If	And	Then
1) Taxpayer calls concerning their injured spouse allocation	There is a math error on the account	Refer to IRM 21.5.4.5.7, Math Error with Injured Spouse. Caution: Do not make any changes to the account or release the refund without first contacting the area that worked the injured spouse allocation .
2) Taxpayer inquires about their portion of refund prior to filing original return		<ol style="list-style-type: none"> 1. Advise the taxpayer it may be necessary to obtain Form 8379 and file it with original return. Remind taxpayer to write (Injured Spouse) in the upper left-hand corner of their Form 1040. 2. Advise taxpayer to allow up to 11 weeks for ELF returns and up to 14 weeks for paper returns processing time from the time we receive their original return.
3) Taxpayer inquires about their portion of the refund after filing the original return	Form 8379 was not filed with the original return,	<ol style="list-style-type: none"> 1. Advise the taxpayer to submit Form 8379 with signature, attach all Forms W-2, Form W-2G, or Form 1099 showing federal income tax withholding and send it to campus where the original return was filed. 2. Advise the taxpayer NOT to include a copy of the tax return with the Form 8379 nor to file it with a Form 1040-X unless changes to the tax return need to be made. 3. Advise taxpayer to allow up to 8 weeks processing time from the time we receive the Form 8379.

If	And	Then
<p>4) Taxpayer says Form 8379 was filed with their original return and no refund was received.</p>	<p>TC 150 is blocked 92 and Taxpayer Protection Program (TPP), issues have been resolved on the account and tax or TOP offset has not occurred.</p>	<ol style="list-style-type: none"> 1. Advise the taxpayer to allow 17 weeks processing time, unless there is an open control base; if there is an open control base advise them to allow 8 weeks from the control date. The 17 week timeframe includes the 9 week processing timeframe for a corrected TPP Unpostable 126-0. Please see IRM 21.4.1.4.1.2, Return Found/Not Processed, for the timeframe. 2. If the above timeframes have passed, and the case has not been worked, is assigned to a CSR, and you have access to Correspondence Imaging Inventory (CII), leave a Case Note for the CSR working the case. If the case is assigned to a CSR and you do not have access to CII issue Form 4442 or Form e4442 to the CSR. Include the taxpayer contact information and any details the taxpayer provides which may help resolve the case. Advise the taxpayer to allow 30 days to process. 3. If the timeframes above have passed, and the case has not been worked and the open control base is assigned to a clerical specialized control number or there is an open control base not assigned to a specific CSR, and you have access to CII, and are trained to work Injured Spouse cases, process the case according to 21.4.6.5.8.3, Processing of Form 8379 Injured Spouse Allocation. 4. If the above timeframes have passed, the case has not been worked and there is an open control base assigned to a clerical site specialized control number or there is an open control base not assigned to specific CSR, and you are not trained to work Injured Spouse cases and do have access to CII, leave a Case Note. Include taxpayer contact information and any details that the taxpayer gives which may help resolve the case. If you do not have access to CII, refer to IRM 21.3.5.4.1, When to Prepare a Referral. <ol style="list-style-type: none"> a. Update AMS History with the information obtained from the caller. b. Inform the taxpayer that a note has been added to their account and to allow 30 days to process.

If	And	Then
5) Taxpayer says Form 8379 was filed with their original return and no refund was received.	TC 150 is blocked 92 and tax or TOP offset has not occurred.	<ul style="list-style-type: none"> • Advise taxpayer to allow 11 weeks for electronic filed returns and 14 weeks for paper processing time from the time the Form 1040, U.S. Individual Income Tax Return, was received. DO NOT issue Form 4442 or Form e4442. • If 11-14 weeks have passed and the case has not been worked and is assigned to a CSR, and you have access to CII, leave a Case Note for the CSR working the case. If the case is assigned to a CSR and you do not have access to CII, issue Form 4442 or Form e4442 to the CSR. Include taxpayer contact information and any details that the taxpayer gives that may help resolve the case. Advise the taxpayer to allow 30 days to process. • If 11-14 weeks have passed and the case has not been worked and is controlled to a clerical, site specialized control number or there is an open control base not assigned to a specific CSR, and you have access to CII and are trained to work Injured Spouse cases, process the case according to 21.4.6.5.8.3, Processing of Form 8379, Injured Spouse Allocation. • If 11-14 weeks have passed, the case has not been worked, it is controlled to a clerical, site specialized control number or there is an open control base not assigned to specific CSR, you are not trained to work Injured Spouse cases, and do have access to CII, leave a Case Note. Include taxpayer contact information and any details that the taxpayer gives that may help resolve the case. If you do not have access to CII refer to 21.3.5.4.1, When to prepare a referral. • <ul style="list-style-type: none"> a. Update AMS History with the information obtained from the caller. b. Inform the taxpayer that a note has been added to their case and they should allow 30 days to process. <p>Note: If you do not have the stamped received date use the TRDBV date.</p>

If	And	Then
6) Taxpayer says Form 8379 was filed with their original return and no refund was received.	TC 150 is blocked 92, the Form 8379 allocation has been worked and a tax or TOP offset has occurred.	<p>Research the CII archived case files if necessary. Advise the taxpayer of the reason for the offset.</p> <p>Note: If you work at a remote call site and you don't have access to CII to view the Form 8379 Allocation Worksheet or do not work injured spouse allocations, transfer the call to Application 35 using the Automated Call Distributor (ACD) = 92035 or the Infrastructure Upgrade Project (IUP) = 1035 DO NOT transfer the call if the taxpayer is simply asking about the status of their claim.</p> <p>Reminder: Provide a transfer PIN per IRM 21.1.3.2.5, Initial Authentication Transfer Procedures/Transfer PIN.</p>
7) Taxpayer says Form 8379 was filed with their original return and no refund was received.	TC 150 is blocked 92, the Form 8379 allocation has been worked and a tax or TOP offset has NOT occurred.	<p>Research the CII archived case files if necessary.</p> <p>Note: If you work at a remote call site and you don't have access to CIII or do not work injured spouse allocations, transfer the call to Application 35 using ACD = 92035 or IUP = 1035. DO NOT transfer the call if the taxpayer is simply asking about the status of their claim.</p> <p>Reminder: Provide a transfer PIN per IRM 21.1.3.2.5, Initial Authentication Transfer Procedures/Transfer PIN.</p>
8) Taxpayer says Form 8379 was filed with their original return and no refund was received.	TC 150 is blocked 92, a TOP offset has or has not occurred, and Form 8379 was not worked and the case is closed.	<ol style="list-style-type: none"> 1. Send 4442 or Form e-4442 to the local Directorates AM Paper Function Indicate taxpayer's phone number and whether taxpayer can provide a copy of Form 8379. Exception: For returns previously closed by, Philadelphia, send Form 4442 or Form e4442 to Memphis. 2. Advise taxpayer to allow 6 to 8 weeks. .
9) Taxpayer says Form 8379 was filed with their original return and no refund was received.	TC 150 is not blocked 92 and a paper return was filed.	<ol style="list-style-type: none"> 1. Prepare Form 4442 or Form e-4442 to forward case to the appropriate local Directorates AM Paper Function. Indicate taxpayer's phone number and whether taxpayer can provide a copy of Form 8379. If the taxpayer can provide a copy of Form 8379 via fax, attach a copy of the faxed Form 8379 to the Form 4442 or Form e4442. 2. Advise taxpayer to allow 6 to 8 weeks.

If	And	Then
10) Taxpayer says Form 8379 was filed with their original return and no refund was received.	TC 150 is not blocked 92 and an ELF return was filed.	If the return was an ELF return, do not forward a referral. Explain to the taxpayer that our records show the Form 8379 was not filed with the return. Request the taxpayer file a signed copy of the Form 8379.
11) Taxpayer says Form 8379 was filed after offset and no refund was received.	TC 971, AC 071 is posted.	Advise taxpayer to wait 45 days from transaction date (TC 971 posting date) for a response.
12) Taxpayer says Form 8379 was filed after offset and no refund was received.	More than 45 days have passed since TC 971, AC 071 was input, and there is no case control.	<ol style="list-style-type: none"> 1. Advise the taxpayer to resubmit a signed Form 8379. 2. Advise the taxpayer to allow up to 8 weeks from the time they re-file the Form 8379.
13) Taxpayer says Form 8379 was filed after offset and no refund was received.	More than 45 days have passed since TC 971, AC 071 was input, and the case is controlled to a clerical, site specialized control number or is not controlled to a specific CSR.	Annotate the taxpayer's account as follows: <ol style="list-style-type: none"> a. Enter a Case Note (CN) with the information obtained from the caller if you have access to CII, or b. Annotate AMS with the information obtained from the caller if you do not have access to CII c. Inform the taxpayer we have added a note to their case and allow 30 days to process.
14) Taxpayer says Form 8379 was filed after offset and no refund was received.	There is an open control base to a CSR and 8 weeks has passed and the case has not been worked	Send Form 4442 or Form e4442, Inquiry Referral, to the CSR working the case. See IRM 21.3.5.4.1, When to Prepare a Referral, for instructions. Advise the taxpayer to allow 30 days to process.
15) Taxpayer says Form 8379 was filed after offset and no refund was received.	There is no TC 971, AC 071.	Advise the taxpayer it may be necessary to re-file Form 8379, Injured Spouse Allocation, if more than 45 days have passed. Advise the taxpayer to allow up to 8 weeks from the time they re-file the Form 8379.
16) Taxpayer says Form 8379 was filed after offset and no refund was received.	A TC 840/TC 846 posted after receipt of Form 8379; and the IRS processed Form 8379 and issued a refund.	<ol style="list-style-type: none"> 1. Check for TOP offset to a debt of the spouse. 2. Take necessary action if refund was not received and follow refund trace procedures. See <i>IRM 21.4.1.4.4</i>, Refund Issued but Lost, Stolen, Destroyed or Not Received.
17) Taxpayer says Form 8379, Injured Spouse Allocation was filed with or without original return.	The IRS sent Letter 916C Claim Incomplete for Processing; No Consideration	Research CII for an explanation of the no consideration and explain the reason for the no consideration to the taxpayer.

If	And	Then
18) Taxpayer says Form 8379, Injured Spouse Allocation was filed with or without original return.	The IRS previously denied Form 8379, a Letter 105C, Claim Disallowed or Letter 106C, Claim Partially Disallowed, was sent and a TC 290 for .00, blocking series 98/99 (input after receipt of Form 8379).	Research CII for an explanation the previous denial and explain the reason for the denial to the taxpayer. Refer to IRM 21.5.3.4.6.2, Appeals and Responses to Letter 105C and 106C, IF/AND/ THEN chart to assist the taxpayer.
19) Taxpayer filed Form 8379 in any manner.	A refund was not issued and the taxpayer may or may not be experiencing a financial hardship.	<ol style="list-style-type: none"> 1. Consider whether the case should be referred to the Taxpayer Advocate Service. See IRM 21.1.3.18, The Taxpayer Advocate Service (TAS) Guidelines. 2. When referring cases to TAS, use Form 911, Request for the Taxpayer Advocate Service Assistance (and Application for Taxpayer Assistance Order), and forward it to TAS. 3. Advise taxpayer to be prepared to send a copy of Form 8379 to the TAS Office where the Form 911 was submitted. 4. If a hardship exists, refer to IRM 21.4.6.5.5, Hardship Refund Request. <p>Note: If the case does not meet TAS criteria and the taxpayer has a hardship, transfer the caller to App 35 using ACD = 92035 or IUP = 1035. All hardship cases transferred to App 35.</p>
20) Taxpayer filed Form 8379 in any manner.	<p>The Injured Spouse's share of the refund was processed as filed and the taxpayer is now requesting to change their allocation (e.g. exemptions and/or dependents not allocated correctly when first filed).</p> <p>Note: If taxpayer is requesting an explanation of the allocation see paragraph (7) below.</p>	<ol style="list-style-type: none"> 1. Advise the taxpayer to resubmit a signed Form 8379. 2. Advise the taxpayer to allow up to 8 weeks from the time they re-file the Form 8379.
21) The taxpayer calls in response to letter 3179C, any other letter or contact the taxpayer may have received concerning an incomplete Form 8379.	The taxpayer can provide the missing information	Research CII to ensure the taxpayer can provide all the needed information to complete the Injured Spouse Allocation, Form 8379. Advise the taxpayer they can either fax or mail the missing information. Annotate the taxpayers account with a Case Note with the information obtained. Advise the taxpayer to allow 8 weeks for processing.

- (3) In all instances related to injured spouse if you are unable to determine the actual received date of the return use the TRDBV date.
- (4) An injured spouse refund will be issued as requested on the original return unless an offset reversal (TC 898) or Form 5792, manual refund (TC 840), is involved. In these instances, the refund will be sent as a paper check. Advise the taxpayer accordingly based upon the account actions taken to resolve the Injured Spouse Allocation.
- (5) There are always exceptions to the situations described above. Analyze each inquiry carefully to determine the correct course of action. Issuance of a letter is not required per IRM 21.3.3.2, What is the Definition of Correspondence? – Policy Statement P-21.3 (Formerly P-6-12) Exclusion List, when releasing the refund for either exception below.

Exception: If Form 8379 was filed for any filing status other than Married Filing Joint (FS 2) release the refund with a TC 571.

Exception: If the taxpayer states they filed the Form 8379 in error or no longer wants the Form 8379, Injured Spouse Allocation, to be considered:

- 1. Verify the request is from the injured spouse who filed the allocation.
 - 2. Notate on CII or AMS (if you do not have access to CII, the injured spouse requested that Form 8379 not be considered.
 - 3. Input TC 571 if TC 570 (-R FRZ) is on the account.
- (6) If the taxpayer's Form 8379, Injured Spouse Allocation, can be processed with a faxed copy of Form 8379 request a copy and work the case. If you are not trained to work Injured Spouse Allocations and the case is assigned to a CSR or Clerical Unit and you have access to CII, leave a Case Note for the CSR working the case and issue a Form 4442 or Form e4442 to the CSR. If the case is assigned to a CSR and you do not have access to CII, issue Form 4442 or Form e4442 to the CSR. Include the taxpayer contact information and any details the taxpayer provides which may help resolve the case. If the Injured Spouse Allocation case is not assigned: Prepare Form 4442 or Form e-4442 to forward the case to the appropriate AM Function where the taxpayer filed their original return. Indicate taxpayer's phone number and whether taxpayer can provide a copy of Form 8379. In all cases, If the taxpayer can provide a copy of Form 8379 via fax, attach a copy of the faxed Form 8379 to the Form 4442 or Form e4442. Advise the taxpayer to allow 30 days to process.
- (7) In the event of a mis-blocked form, the block must be pulled to look for other Form 8379s. Accounts Management will work all Form 8379s found in the block. Command Code ESTAB is used to request the entire block using the Document Locator Number (DLN). See IRM 2.3.17.5.6, Request Codes for CC ESTAB and IRM 2.3.17-1, Input Format, CCESTAB-Document Request for information on requesting the entire block. Due to COVID related issues in processing returns, you do not need to request the return from files for 2019 and 2020 or for returns filed on years prior to 2019 and 2020 if the return was received and processed during COVID and the filing status is other than MFJ.

- (8) Send Letter 3179C, Refund Offset to Treasury Offset Program (TOP) and Injured Spouse Inquiries, or Letter 285C, Refund/Overpayment Applied to Account, when responding in writing to injured spouse inquiries regarding TOP and tax offsets respectively.
- (9) All Application 20 and Application 186 employees will answer procedural and Injured Spouse/Refund Offset inquiries for which they have been trained. When the taxpayer disagrees, or does not understand the injured spouse allocation by the :
- If you work injured spouse allocations, verify the Form 8379, Allocation Worksheet. If the allocation is correct, advise the taxpayer how the allocation was computed. Send the taxpayer a copy of the Form 8379, Allocation Worksheet, only if they ask for it. The Form 8379, Allocation Worksheet, should be on the CII case file, if not, request the document from files.
 - If you work injured spouse allocations and determine the allocation is incorrect, refer to IRM 21.4.6.5.10, Allocation of Injured Spouse Form 8379, to correct the allocation.
 - If you do not have access to CII to view the Form 8379, Allocation Worksheet, and are unable to make a determination, send a Form 4442 or Form e4442, Inquiry Referral to the campus that worked the Form 8379 Injured Spouse Allocation
 - If you work at a remote call site, and you do not have access to CII to view the Form 8379, Allocation Worksheet, or do not work injured spouse allocations, transfer the call to Application 35 using the Automated Call Distributor (ACD) = 92035 or the Infrastructure Upgrade Project (IUP) = 1035, if it meets the criteria in paragraph 10 below. Also see (11) below.

Exception: If you are an employee assigned to Application 21 and you **do not** have access to CII to view the Form 8379, Allocation Worksheet, or do not work injured spouse allocations:

1. Prepare Form 4442 or Form e-4442
2. Check the Spanish box in Line 21, if applicable
3. Forward the case to the appropriate AM campus that worked the Form 8379.

Reminder: When transferring the taxpayer to Application 35, **provide the taxpayer with a 4-digit transfer personal identification number (PIN)**. See IRM 21.1.3.2.5, Initial Authentication Transfer Procedures/Transfer PIN.

Exception: **Do not transfer if the letter is a Bureau of the Fiscal Service letter. Refer taxpayer to TOP Call Center at 800-304-3107, TDD 800-877-8339.**

- (10) Application 35, an Injured Spouse Allocation (ISA) telephone application, enables CSRs who are fully trained in Injured Spouse Allocation processing to assist taxpayers. Employees staffing Application 35 will not transfer calls to lower level account applications and must address all account issues in addition to the Injured Spouse inquiries listed below. CSRs on APP35 handle the following types of issues:
- How we determined the Injured Spouse's share of the refund

- Injured Spouse disallowance issues.
- Injured Spouse no consideration issues Letter 916C, Claim Incomplete for Processing; No Consideration.
- Injured Spouse's share of the refund offset
- Wrong Spouse offset
- Hardship cases

Note: App 35 assistors will make the determination if the taxpayer meets hardship criteria. Do not advise the taxpayer they meet hardship criteria.

- Injured Spouse manual refund S- freeze TC 740
- Taxpayer received Letter 3179C, Refund Offset to Treasury Offset Program (TOP) and Injured Spouse Inquiries, or another letter related to the Injured Spouse issue.

Note: If the case does not meet TAS criteria or the criteria above, prepare Form 4442 or Form e4442, Inquiry Referral, and refer to the appropriate AM function where there is an open control. See IRM 21.3.5.4.1, When to Prepare a Referral, for instructions. **Do not transfer the call when a Form 4442 or Form e4442 is required.**

Reminder: Any application requiring specific criteria to be met before transferring the call is only listed in the IRM. The Telephone Transfer Guide directs you to this specific IRM reference to ensure the above criteria is met before transferring to Application 35 using the Automated Call Distributor (ACD) = 92035 or the Infrastructure Upgrade Project (IUP) = 1035. You will not find 92035 or 1035 listed in the TTG as a direct transfer. Also see (11) below.

- (11) If you are assigned to Application 21 and you do not have access to CII to view the Form 8379, Allocation Worksheet, or do not work injured spouse allocations. Determine if the taxpayer is proficient in English and follow the steps below:
 1. If yes, and the caller agrees to accept assistance in English, transfer to Application 35
 2. If no, follow 3-5 below.
 3. Prepare Form 4442 or Form e-4442
 4. Check the Spanish box in Line 21, if applicable
 5. Forward the case to the appropriate AM campus that worked the Form 8379.
- (12) Injured spouse cases originally worked and closed in Philadelphia should be directed to Memphis Accounts Management.
- (13) If a taxpayer calls and wants to update their address after filing Form 8379, refer to IRM 3.13.5.49, Updating Address Records for instructions.

21.4.6.5.3
(09-22-2017)
**Congressional
Correspondence**

- (1) Congressional inquiries about an injured spouse claim for a specific taxpayer are referred to the appropriate Local Taxpayer Advocate Office (LTA) for control and assignment. Refer to IRM 13.1.8.3, Control Principles.

Note: For other types of Congressional inquiries, refer to IRM 21.1.3.18, The Taxpayer Advocate Service (TAS) Guidelines.

The LTA, forwards Congressional inquiries that deal strictly with TOP offsets (child support or other TOP debts) to the Bureau of the Fiscal Service at the following address:

Bureau of the Fiscal Service
Legislative & Public Affairs Office
401 14th Street SW
Room 556 C
Washington, DC 20227

21.4.6.5.4
(10-01-2013)
Agency Inquiries

- (1) All letters or documents from an agency and addressed to the IRS are sent back to agency headquarters or Bureau of the Fiscal Service if they concern:
 - The amount of the debt owed
 - Removal of the debtor from the Treasury Offset Program
 - A refund of the offset amount
- (2) Agency correspondence “certifying” a debtor, or requesting that a debtor’s tax refund be offset, is returned to the agency. Advise correspondents to contact their headquarters office for debt collection.
- (3) The AM Function may receive copies of legal documents regarding support obligations. They are intended for the Full Collection program. Forward to the Non-Master File unit. See IRM 21.4.6.5.25, Non-Master File Child Support.
- (4) Any notices received by the IRS from an agency must be returned to that agency. **Do not** call the agency.

Exception: Notices received from an agency that are addressed to a taxpayer using the IRS Campus address are disposed of as classified waste. These are due process notices and there is no requirement that the IRS return them to the agency or forward them to the taxpayer.

- (5) **Do not** forward agency correspondence to the IRS Headquarters unless directed to do so by Headquarters. Agency inquiries must be answered by the IRS campus or territory office receiving the correspondence.

21.4.6.5.5
(09-22-2017)
Hardship Refund Request

- (1) Consider whether the taxpayer contact should be referred to the Taxpayer Advocate Service (TAS). See criteria listed in IRM 13.1.7.2, TAS Case Criteria, follow procedures outlined in IRM 21.1.3.18, The Taxpayer Advocate Service (TAS) Guidelines. To refer the taxpayers to TAS, use Form 911, or Form e-911, Request for the Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order), if AMS is not available.
- (2) A taxpayer may submit a Form 911 or request a hardship refund of all or a portion of the overpayment on the return even though they may owe a Federal tax debt, child support or other TOP debt.
- (3) In general, the IRS may honor a hardship refund request if the taxpayer has no debt or owes only Federal taxes. See IRM 21.4.6.5.11.1, Offset Bypass Refund (OBR), for an exception to that rule.
- (4) If you intend to honor a hardship and a tax debt exists, See IRM 21.4.6.5.11.1, Offset Bypass Refund (OBR), before taking any action.

- (5) When issuing a hardship refund under any circumstance, inform the taxpayer that if they owe a child support or Federal agency debt submitted for tax refund offset, Bureau of the Fiscal Service may apply their refund to the debt through TOP. The IRS has no say in this matter. See IRM 21.4.6.5.7.1, Allowable TOP Offset Reversals, for levy proceeds. You can tell the taxpayer:
 - a. The IRS no longer maintains child support or other TOP debts.
 - b. The Bureau of the Fiscal Service maintains these debts and affects the offset through TOP.
 - c. They may contact the TOP Call Center at 800-304-3107, TDD 800-877-8339 to determine if a debt is owed and whether an offset will occur. See IRM 21.4.6.5.1, Taxpayer Inquiries on TOP Offset.
 - d. Only the agency to which the debt is owed can honor a hardship request for a TOP offset.

Note: Certain refunds cannot be issued before February 15, even if there is a hardship. Refer to IRM 21.4.1.2 (6) , Refund Research Overview, for information pertaining to the Protecting Americans from Tax Hikes Act of 2015 (PATH Act) Section 201.

21.4.6.5.6
(04-15-2014)
Credit Elect

- (1) IRC 6402(b) provides that a taxpayer can elect to have an overpayment applied to a future tax, once all tax and TOP debts subject to offset under IRC 6402(a), (c), (d), (e) and (f) are satisfied.
- (2) Bureau of the Fiscal Service maintains the TOP debts subject to offset under IRC 6402(c), (d), (e), and (f). Bureau of the Fiscal Service provides a file, with each debtor's TIN, name control, and the total amount of debt owed, to the Enterprise Computing Center at Martinsburg (ECC-MTB) on a weekly basis.
- (3) ECC-MTB searches this file after any applicable tax offsets are determined but before crediting the credit elect amount.
 - a. The amount of credit elect is reduced by the total amount of debt owed.
 - b. Any amount remaining more than debt owed is credited as requested.
 - c. The amount of credit elect, up to the amount of the debt owed, is released for refund and includes any applicable interest.
 - d. A CP 45, Reduced Credit Elect is issued to inform the taxpayer of the reduction in the amount of their credit elect and the possible need to make additional estimated tax payments.
 - e. Bureau of the Fiscal Service matches the refund through TOP and offsets the amount to the agency debt(s).
- (4) When the amount of a credit elect is reduced by a TOP offset, but the credit later becomes available because of an injured spouse allocation, no comparison is made against the BFS debtor file. If the tax year has not ended, the credit is applied systemically. If the tax year has ended, input a credit transfer, TC 830/TC 710, using CC ADD48.

21.4.6.5.7
(04-15-2014)
**Reasons to Reverse
TOP Offset**

- (1) This information is intended as a guide to determine when it is acceptable to reverse a Treasury Offset Program offset and when the offset should remain on the account. It is not all-inclusive. You may encounter situations that require an opinion by the IRS Chief Counsel.

21.4.6.5.7.1
(02-01-2016)
**Allowable TOP Offset
Reversals**

- (1) A reversal of a TOP offset **can** be done to:
- Issue a refund to an injured spouse.
 - Correct the IRS initiated procedural or pipeline processing errors such as math errors, data input errors, or misapplied payments. Levy proceeds that result in offsets are not considered misapplied payments.
 - Satisfy the balance due on a superseding return.
 - Resolve bankruptcy cases originating from Insolvency in the territory offices.
 - Re-sequence an account when the offset is on the “from” account. See IRM 21.4.6.5.19, Re-sequence Cases.
 - Reprocess a return to another TIN.
 - Reprocess a return to another tax period.
 - Resolve Combat Zone cases, see IRM 21.4.6.5.16, Combat Zone Cases.
 - Recover a refund issued because of a totally false return; (e.g., returns detected by the Questionable Refund Program, Criminal Investigation, Integrity & Verification Operation etc.).
 - Levy proceeds which do not create an overpayment and are within two years of making the levy, must meet the criteria in IRC 6343(d).

Note: Before reversing child support (Agency Code 1 or 2) offset, see IRM 21.4.6.4.2.4, Child Support TOP Offsets.

21.4.6.5.7.2
(01-20-2017)
**Unallowable TOP Offset
Reversals**

- (1) A reversal of a TOP offset **cannot** be input to:
- Solely satisfy an audit or under-reporter deficiency posted after the offset occurs unless the offset resulted from a TC 640/TC 670 payment intended specifically for the tax audit increase. The taxpayer must have specified that the payment is a cash bond.
 - Satisfy a balance due on a tax return that posted after the return which created the offset; this includes multiple year filings where an overpaid return(s) posts before a balance due return(s).
 - Satisfy a balance due that resulted from an amended return received after the due date on the module where the offset occurred.
 - Refund or credit a tax account because the offset resulted from an over-collected or erroneously collected levy which creates an overpayment per IRC 6402, unless the IRS erroneously levied another taxpayer’s account.
 - Honor a credit election.
 - Honor a disaster claim.
 - Honor an Offset Bypass Refund (OBR) hardship request. See IRM 21.4.6.5.5, Hardship Refund Request, and IRM 21.4.6.5.11.1, Offset Bypass Refund (OBR).
 - Reverse a TOP offset to the Office of Child Support Enforcement that occurred after October 17, 2005 due to an automatic stay for bankruptcy.
 - Reverse a TOP offset to a creditor agency (other than the Office of Child Support Enforcement) that occurred after October 17, 2005 when the tax module contains an unreversed TC 520 with closing code 60-67, 81, or 83-89. The creditor agency may have obtained relief from the automatic stay.

Note: If it is determined that the creditor agency did not obtain relief from the automatic stay, then the TOP offset may be reversed.

- Reverse a TOP offset to the Office of Child Support Enforcement (Agency Code 2), over 5 months old (150 days) from the refund payment date unless for an injured spouse allocation. To determine the date of offset, use

the RFND-PYMT-DT associated with the TC 846/840. The 5-month limit allows for internal system processing of the offset reversal request (TC 766 with an Offset Trace Number - OTN). For more information and offsets to the Office of Child Support Enforcement (Agency Code 1), see IRM 21.4.6.4.2.4 **Child Support TOP Offsets**.

- (2) If the injured spouse is not responsible for any part of the debt which offset, always reverse the injured spouse's share of the refund when working a Form 8379, Injured Spouse Allocation. See IRM 21.4.6.5.7.1, Allowable TOP Offset Reversals.

21.4.6.5.8
(04-27-2017)
**Form 8379 Injured
Spouse Allocation**

- (1) The spouse, whose portion of a joint income tax overpayment was or will be offset to a Federal tax debt or TOP debt for which they are not liable, is known as the "injured spouse." The injured spouse must file Form 8379, Injured Spouse Allocation, to request their portion of the joint refund.

Caution: An injured spouse is not the same as an "innocent spouse." Refer to IRM 25.15, Relief from Joint and Several Liability For telephone inquiries regarding Form 8857, **Request for Innocent Spouse Relief**, please refer to IRM 21.6.8.5, Inquiries/Claims. Do not refer taxpayers calling about Form 8379, **Injured Spouse Allocation**, to the Innocent Spouse number.

- (2) When a taxpayer wants a Form 8379, Injured Spouse Allocation, but mistakenly uses Form 8857, Request for Innocent Spouse Relief, return the Form 8857 to the taxpayer, advising them of the mistake. Include a blank Form 8379 with instructions.
- (3) When a taxpayer wants to claim innocent spouse relief, but mistakenly uses Form 8379, Injured Spouse Allocation, return the Form 8379 to the taxpayer. See IRM 21.4.6.5.8.9, Form 8379, No Consideration Procedures for instructions.
- (4) The injured spouse must have made payments such as Federal Income Tax Withheld from wages or estimated tax payments, unless they are entitled to one or more refundable credits claimed on the joint return, such as Federal Income Tax Withholding, Earned Income Credit, or Additional Child Tax Credit, etc.

Exception: Joint filers whose principal home was in a community property state at any time during the tax year may not have to meet the requirement in paragraph (4) above. See IRM 21.4.6.5.9, Community Property Allocation.

21.4.6.5.8.1
(10-01-2007)
Filing Form 8379

- (1) Form 8379, Injured Spouse Allocation, may be filed as an attachment to the original individual tax return or by itself.
- (2) A surviving spouse is entitled to file a Form 8379 and receive a refund on behalf of the deceased injured spouse even though the surviving spouse owes the obligation.

21.4.6.5.8.2
(12-16-2022)
Receipt of Form 8379

- (1) Taxpayers may file an Injured Spouse Allocation by attaching a Form 8379, Injured Spouse Allocation, to their tax return and noting **Injured Spouse** in the upper left corner of the Form 1040 series.
- Form 1040, U.S. Individual Income Tax Return
 - Form 1040SR, U.S. Tax Return for Seniors
 - Form 1040A, U.S. Individual Tax Return, 2017 and prior
 - Form 1040EZ, Income Tax Return for Single and Joint Filers With No Dependents, 2017 and prior
- (2) For Form 8379 received with the original return (Form 1040 series) indicating **"Injured Spouse"** in the upper left corner of the form:
- a. The return is processed using Blocking Series (BS) 920–929,
 - b. When the TC 150 posts, a CP 36D notice generates to the AM Function,
 - c. The BS sets a TC 570 -R freeze to hold the credit until the Form 8379 is worked, and
 - d. The CP 36D notices for paper returns continue to print in Files for association with the original return and are shipped to AM to be scanned through the Correspondence Imaging Inventory (CII).

Note: Beginning in tax year 2018, Forms 1040A and 1040EZ will no longer be available. All taxpayers will file Form 1040 or 1040-SR.

See IRM 21.4.6.5.8.3, Processing of Form 8379 Injured Spouse Allocation, for more information.

See IRM 21.5.1.4.4.1, Unresolved Taxpayer Protection Program (TPP) Issues for Correspondence and Loose Forms, when there is an UP 126.

- (3) Form 8379 received with an electronically filed return:
- a. The return is processed using Blocking Series (BS) 920–929,
 - b. When the TC 150 posts, A CP 36D notice systemically generates through the Correspondence Imaging Inventory (CII) to AM; however, there is no image of the electronically filed return.
 - c. The BS sets a TC 570 -R freeze to hold the credit until the Form 8379 is worked, and
 - d. Electronic filed returns can be viewed on CC TRDBV and Modernized e-File (MeF) returns will be displayed in the Return Request Display (RRD) by accessing the Employee User Portal (EUP).

Note: Form 8379, revision date 11-2021, filed with MeF returns erroneously rejected entries on the Form 8379 for Line 16 Non-refundable credits and Line 17 Refundable credits column (a) (b) and (c) did not populate. The programming issue was fixed. However, for cases where Letter 3179C was previously sent requesting the Form 8379, and it's no longer needed, send a new letter stating the copy is no longer needed. Possible open paragraph can read, Due to a systemic issue, we previously wrote you requesting a copy of your previously submitted Form 8379, Injured Spouse Allocation. The systemic issue has been corrected and we no longer need you to send a copy. If the case has been worked and refund issued no letter is needed.

See IRM 21.4.6.5.8.3, Processing of Form 8379 Injured Spouse Allocation, for more information.

- (4) Form 8379(s) received without the original return are not numbered.
- a. Form 8379 is forwarded to the Accounts Management (AM) Function, A (TC) 971, Action Code (AC) 071, is input when the case is controlled.

Note: If the (TC) 971 (AC) 071 was not input when the case was controlled, you **must** input the (TC) 971 (AC) 071, using the stamped received date on the Form 8379.

Note: When a TC 971, AC 071 was input on the wrong account/year, update the CII case to the correct account and input the TC 971, AC 071 on the appropriate account. The received date of the Form 8379 is used for the transaction date of the TC971 AC071.

See IRM 21.4.6.5.8.3, Processing of Form 8379 Injured Spouse Allocation, for more information.

- (5) If there is a return attached to Form 8379 and research indicates that there is no TC 150 on the account, see IRM 21.6.7.4.2.5, TC 150 Not Located — Duplicate or Amended Return Obtained, to process the return. Send a Letter 3179C, Refund Offset to Treasury Offset Program (TOP) and Injured Spouse Inquiries, with paragraph “o” informing the taxpayer of the delay in processing the Form 8379, Injured Spouse Allocation.
- (6) If you receive Form 8379 and there is no TC 150 on the account. Research to see if the Form 8379, is for another tax year. If the Form 8379 is for another year, update the CII case to the correct year and input the TC 971, AC 071 on the appropriate year. The received date of the Form 8379 is used for the transaction date of the TC971 AC071. If the Form 8379 is not for another year return the Form 8379 to the taxpayer advising them we have no record of a return being filed for the tax year indicated on the Form 8379, use Letter 3179C. Close your case.
- (7) If you receive a Form 8379 and the return is located in ERS, you should monitor until the account is corrected:
- Suspend your cases and change your control base to monitor (M) status. Use activity code IS-PN-ERS
 - Upon completion of the return, work your case. Secure a copy of the return if necessary.

21.4.6.5.8.3
(10-01-2023)
**Processing of Form
8379 Injured Spouse
Allocation**

- (1) When a Form 8379, Injured Spouse Allocation, filed with the original return, is received in Accounts Management, it must be worked within the 45-day interest free period, to avoid paying interest.

To determine whether the 45-day interest-free period has been met, consider these three dates:

- Return due date (determined without regard to any extension of time for filing the return).

- Return received date (used when the return is filed after the return due date, determined without regard to any extension of time for filing the return).
- Return processable date (RPD) (date return was received in processable form).

To the latest of these three dates, add 45 calendar days. If the date of the refund check is not on or before that date, interest must be allowed on the refund. See IRM 20.2.4.7.5.2, 45-Day Rule and All Original Tax Returns, for the dates of systemically generated refunds. The 45-day interest-free charts (located *here*) may also be used for determining what date your adjustment must be input to meet the 45-day interest-free period for a systemically generated refund.

When a manual refund is required, Form 5792 must be processed no later than the 42nd day when the 43rd day is a work-day. Form 3753 must be processed no later than the 43rd day.

Note: If you are issuing a refund due to a returned check, see IRM 21.4.3.5.5 , Resolving Returned Refunds (Unexpired Checks) .

- (2) If the 45-day interest-free period is missed, allow credit interest on the overpayment. Generally, credit interest is allowed from the availability date of the overpayment to the refund schedule date (less the applicable back-off period). See IRM 20.2.4, Overpayment Interest. The availability date of the overpayment is determined by the payment(s) and/or credit(s) of which it is comprised.

If the Payment/Credit is a	Then the availability date of the overpayment is the
Prepaid or timely credit (e.g., estimated tax payment, withholding, or a payment before the due date (determined without regard to any extension of time for filing)).	Due date of return (determined without regard to any extension of time for filing).
Subsequent payment/credit made dated on or after the due date (determined without regard to any extension of time for filing).	Payment received date/credit date.
Caution: Interest may be computed from other than the availability date of the overpayment when the original tax return was filed late (IRC 6611(b)(3)), or in unprocessable form (IRC 6611(g)). In the event the return was filed late/unprocessable, interest on an overpayment is allowed from the later of the date of the overpayment, the delinquent return received date or the Return Processable Date (RPD).	

If the return is	Then allow interest from the later of
Timely filed (i.e., return received by the original or extended due date).	The return due date (determined without regard to any extension of time for filing), the date of the overpayment (as determined in the preceding table), or the return processable date (if the RPD is after the extension date).
Late filed (i.e., return not received by the original or extended due date).	The late return received date, the date of the overpayment (as determined in the preceding table), or the return processable date.

- (3) Research Command Code INOLES or IAT Results IS tool under both the primary and secondary Taxpayer Identification Number (TIN), for the debt indicator:
- "N" - No debt
 - "F" - TOP debt
 - "I" - IRS debt
 - "B" - Both Federal tax debt and Treasury Offset Program debt

See IRM 21.4.6.4, Refund Offset Research.

Note: Consider the period of limitations for both Federal tax offset and TOP offset. See IRM 21.4.6.5.8.10, Time Period for Submitting Form 8379.

- (4) The (I) indicator is not always set for all Federal tax debts. Research any cross-reference TINs along with CC IMFOL, CC BMFOL, CC TXMOD, MFT 29 and MFT 31, etc. for any outstanding tax debts. Always capture and/or attach INOLES or IAT Results IS screens for both spouses showing the debt indicator (I), (F), (B) or (N) at the time the Injured Spouse Allocation is being worked. Be sure to include BMF screens when there is a X-REF EIN.

Note: The IAT Results IS screen may respond with a debt indicator "N" when an invalid TIN indicator follows the TIN. The IAT tool is designed to research CC INOLET when the invalid indicator is present. If INOLET does not display a debt indicator, then the IAT Results IS screen displays "N." Additional research is needed if the secondary TIN is invalid.

- (5) When working an injured spouse allocation with a Federal tax offset "I" debt, the control base must be changed from DMFC (97140 paper)/DMFE (97144 electronic) to DMFT (40110 Tax Debt).

Exception: If the only "I" debt is due to MFT 35, Shared Responsibility Payment (SRP), **do not change** the control base to DMFT.

Note: Do not change your control base for (B) debts which are both tax and TOP. Only change your control base to DMFT when the primary and secondary debt indicators are **N/I**, **I/N** or **I/I** unless it meets the exception above.

- (6) The status of a debt at Bureau of the Fiscal Service may change daily and the debt indicator on CC INOLE is updated weekly. The debt may be activated, inactivated or deleted within TOP before a refund is issued. Therefore, discrepancies may arise from one cycle to the next and the IRS may not be aware of a TOP debt. Consequently, the refund will offset, resulting in having to reverse the offset to process the Form 8379, Injured Spouse Allocation.
- (7) When working a Form 8379 and the debt indicator on CC INOLE is “N” for both taxpayers, do not release the overpayment with a TC 571. You will work the injured spouse case and issue a refund to the injured spouse for their share of the overpayment. In addition, retain the IDRS category code as DMFC (97140 paper)/ DMFE (97144 electronic).
- (8) When the wrong spouse is identified as the injured spouse on Form 8379, Injured Spouse Allocation, and the form is filed with an original signed Form 1040, Form 1040-X, or a duplicate filed return, process the form without contacting the taxpayer if either the following apply:
 - a. You can determine, without doubt, who the injured spouse is.
 - b. The taxpayer’s main home was in a community property state.

Note: When the wrong spouse is identified on Form 8379 and you are issuing a manual refund, you must notate in the remarks section **INJ SP Incorrect on F8379**, of Form 5792, **Request for IDRS Generated Refund (IGR)** or Form 3753, Manual Refund Posting Voucher **If this notation is not included in the remarks section the manual refund will be rejected.**

- (9) On all Forms 8379 (Rev. 11–2016 (MeF) and Rev. 11–2016), issue the Injured Spouse’s portion of the refund in **“one name only”** unless line 11 on the form is checked to “Issue in both names”. For all Form 8379 revisions prior to 11-2014, issue the Injured Spouse’s portion of the refund in **“one name only”** even if line 11, one name only box is not checked.
- (10) If the injured spouse is not entitled to any overpayment from tax year 20XX, the allocation should not be considered. See IRM 21.4.6.5.8.9, Form 8379, No Consideration Procedures.
- (11) Verify the Form 8379 has been processed in BS 920–929. All Forms 1040 series indicating “Injured Spouse” in the upper left corner are blocked in BS 920–929. This blocking series permits the CP 36D, Injured Spouse Claims Notice, to be issued. Two copies of the CP 36D notice, with a transcript of the account are generated. One copy of the CP 36D notice is used as a “charge out” in files; the other is scanned into CII or forwarded to the Accounts Management Function with the Form 8379, Injured Spouse Allocation.
- (12) When the CP 36D, Injured Spouse Claims Notice, is received in the AM Function, use Command Code (CC) RTVUE, (CC) TRDBV or Return Request Display (RRD) to view the return on-line and work the Form 8379. You must complete Form 8379 Allocation Worksheet and attach the Form 8379 Allocation Worksheet to the CII case. If the refund will be computer generated, input the adjustment with a 290 .00, RN 808/RN 810 or RN 809/RN 811.

Exception: If a manual refund is issued, a TC 290 .00, HC and PDC are not needed, provided that Blocking Series 9 is input on your manual refund document.

- (13) If there is an outstanding IRS obligation for the primary or secondary taxpayer, compute the Injured Spouse refund. See IRM 21.4.6.5.10, Allocation of Injured Spouse Form 8379.
- (14) When the overpayment has not offset and there is an IRS obligation, follow the IF/AND/THEN Chart below:

IF	AND	THEN
There is an IRS obligation on the primary taxpayer's account	The injured spouse is the secondary taxpayer	Issue a manual refund using BPI 1 and BS 9. Any remaining overpayment will release to any outstanding debt. See exception below.
There is an IRS obligation on the secondary taxpayer's account	The injured spouse is the primary taxpayer	Issue a manual refund using BPI 2 and BS 9. Any remaining overpayment will release to any outstanding debt. See exception below.

Exception: The following is a list of conditions when the remaining overpayment will not offset if the secondary taxpayer owes a Federal tax debt. In these instances, you will need to manually transfer the credit to the secondary taxpayer's tax debt.

- The Federal tax debt is under a previous spouse's TIN.
- The account does not have a XREF EIN/TIN.
- Future year debt owed by the secondary taxpayer.
- Invalid TINs (name control mismatch, etc.).
- Clearance of overpayment for amounts less than \$5.00.

- (15) The following conditions **do not** require a manual refund:
- If both taxpayers owe a married filing joint debt and it is the only Federal tax debt owed, input RN 808/RN 809 or RN 810/RN 811 for the difference of the Injured Spouse's portion of the overpayment and joint liability. Any remaining overpayment will release to the joint outstanding debt.
 - If only one taxpayer owes a Federal tax debt and the remaining overpayment will full pay the debt(s).
 - If an active combat zone case involves a Federal tax debt. See IRM 21.4.6.5.16, Combat Zone Cases, for additional information.
- (16) Send an explanation of the action taken to the taxpayers if applicable. Letter 3179C, Refund Offset to Treasury Offset Program (TOP) and Injured Spouse Inquiries, see IRM 21.4.6.5.10.4, Injured Spouse Refund-TOP Offset, for the information to include in the letter. Letter 285C, Refund/Overpayment Applied to Account, see IRM 21.4.6.5.10.5, Injured Spouse Refund—Tax Offset, for the information to include in the letter.

Note: See IRM 21.6.7.4.1, Source and Reason Codes — CP 21/CP 22A Notices, for conditions when a notice will/will not generate.

- (17) Some entity or module freeze may need to be resolved before the Form 8379, Injured Spouse Allocation, can be processed. Some freezes and the actions required to process the injured spouse allocation are:

- a. Invalid TIN entity freeze: Resolve problem with the TIN before processing the Form 8379.

Note: If the secondary TIN is invalid and a refund is requested in one name only, a manual refund is required.

- b. The -B Freeze is set when the Statute of Limitations for refund has expired. See IRM 21.5.6.4.4, -B Freeze, IRM 21.5.2.3, Adjustment Guidelines Research, and IRM 21.5.3.4, General Claim Procedures to resolve the -B Freeze.
- c. (-G) Math Error Freeze, Forms 8379 received with an original return that shows a math error on the return should not be processed without first attempting to resolve the math error. Refer to IRM 21.5.4.5.7, Math Error with Injured Spouse. If you are unable to resolve the math error, work the allocation based on the information you have.
- d. (I—) Credit Interest Freeze, sometimes set by the posting of TC 150, CCC U, indicating no reply by the taxpayer to the IRS letter requesting missing information. Identify the missing information on the original return, if available, and write the taxpayer requesting it or if the issue can be resolved by having the taxpayer fax in missing information, you may attempt to contact the taxpayer/authorized representative by telephone and request the missing information be faxed to you, explain that the injured spouse Form 8379 cannot be processed until the information is received. If you write the taxpayer suspend the case for 40 days, 55 days for overseas taxpayers, with a new IRS received date. If the taxpayer replies with the missing information, update the Return Processable Date (RPD), per IRM 21.5.6.4.17(2), I- Freeze, to the date the information is received. If a response is not received, follow IRM 21.4.6.5.8.9, Form 8379 No Consideration Procedures. Input a TC 290 .00 with a Hold Code 4 to hold the credit when sending a no consideration letter. When the I-freeze is unresolved, the Form 8379 cannot be processed. The credit balance on the module must be held so the taxpayer can reply to the no consideration letter with the information needed to make the return processable.
- e. (—R with Julian date 999) TDI Refund Freeze: Contact TDI to determine if the freeze will be released or whether the injured spouse may have their portion of the overpayment by issuing a manual refund. See IRM 25.12.1.12.4, Processing Injured Spouse Allocations for instructions.
- f. (-R with an Unreversed TC 971 and/or TC 972 AC 134) IVO Involvement: Process the injured spouse allocation without regard to IVO indicators when the income data is verifiable on CC IRPTRL. Disregard the instructions in IRM 21.5.6.4.35.3, -R Freeze Modules with Integrity & Verification Operation (IVO) Involvement.

Note: If the income data wages/withholding is not verifiable, submit an E4442 to RICS/IVO requesting a determination of the return. If IVO advises the return has been referred to the appropriate function, issue a Letter 916C, Claim Incomplete for Processing; No Consideration, informing the taxpayer that upon completion of the review

of their tax return, they can re-submit a new Form 8379, Injured Spouse Allocation, if needed. Input a TC 290 .00 with a hold code 4 to hold the credit when sending a no consideration letter.

If the taxpayer claims identity theft and provides the required documentation, follow IRM 21.6.2.4.3 Scrambled SSN Case Procedures.

- g. (—V) Bankruptcy Freeze: Contact Insolvency to determine if the injured spouse's portion of the refund may be issued manually and whether a BPI 3 is necessary due to the bankruptcy. See IRM 21.4.6.5.15, Bankruptcy Cases Involving Tax Offset, for instructions.

Reminder: When Insolvency approves the manual refund, you must indicate approval on Form 5792. Annotate in Box 20, Remarks, Approved by Insolvency (or Technical, if applicable). Be sure to check Box 23, Bankruptcy Code Case. Remarks must also reflect which tax module the TC 520 is on and No TC 521 is pending. For additional information, refer to IRM 3.17.79.4.1, Case Review and Command Code REFAP (Refund Approval).

- h. (V—) Outstanding Liability Freeze: Work Form 8379 with a V- freeze using normal procedures (i.e. the injured spouse is still entitled to their portion if they are not liable for the debt that caused the V- freeze).
- i. (—W) Failed Banks/Litigations Freeze: Complete thorough research of the account and modules to identify the -W (Litigations) freeze status. See IRM 21.5.6.4.46, -W Freeze, for instructions.
- j. (—Y) Offer in Compromise (OIC): - Follow instructions in IRM 21.5.6.4.50, -Y Freeze, and contact OIC to determine if the injured spouse's portion of the refund can be issued manually. You will need to contact Monitoring Offers in Compromise (MOIC) before any account can be adjusted if either an OIC indicator or a TC 780 are present. See SERP, Who/Where, Offer-in-Compromise (OIC) Compliance Campus Locations, for more information.
- k. (E -) Unresolved TPP Issues. Follow instructions in IRM 21.5.6.4.9.1 E-Freeze Procedures for Unresolved TPP Issues. Advise the taxpayer we are returning their Form 8379, because they did not respond to the authentication letter we previously sent. Once their identity is verified and their return has been processed they can re-send their Form 8379. Complete thorough research of the account and modules to identify the E-TTP Freeze status.

21.4.6.5.8.4
(10-01-2021)
**Review the Form 8379
for Completeness**

- (1) Rev. Rul. 80–7 intends that income, deductions, personal exemptions, credits, and payments **shown on the joint return** be allocated to the spouse to whom they belong. Forms such as **Form 1099-INT**, reported under both names should be allocated to the spouse as entered on Form 8379.
- (2) The Form 8379, Injured Spouse Allocation, must be reviewed to determine that all income **shown on the joint return** has been properly allocated. Verify the allocated items with Form(s) W-2 and/or CC IRPTR, IMFOL, RTVUE, TRDBV or Return Request Display. Return Request Display - Modernized e-File (MeF) should only be used if none of the other options are available.
- (3) The taxable amount of Unemployment Compensation or Social Security Benefits **shown on the joint return** must be used when allocating the separate Adjusted Gross Income (AGI) for each spouse who received the benefit(s).

- (4) Always allocate income, withholding, expenses and other taxes to the spouse to whom they belong.
- (5) Allocate any child tax credit, child and dependent care credit and additional child tax credit to the spouse who was allocated the qualifying child's exemption. Allocate the education credit to the spouse who would have shown the item on their separate return. Allocate business credits based on each spouse's interest in the business. Allocate any other credits as the taxpayer has entered on Form 8379.

Note: For 2018 and subsequent: if the exemption portion is blank or shows zero, allocate the child tax credit, credit for other dependents, additional child tax credit, dependent-related education credits, and any other credits as entered on the Form 8379. If the Form 8379 has exemptions listed, follow normal procedures. If the exemption portion is incomplete and the credits are not allocated, split the unallocated credits in half (50/50) and send Letter 3179C, Refund Offset to Treasury Offset Program (TOP) Nontax Obligation or Letter 285C, Refund/Overpayment Applied to Account.

Reminder: A letter is not needed for Community Property allocations when joint credits are involved.

Reminder: If using the IAT IS Results Allocation Worksheet and the base tax after nonrefundable credits is zero, allocate the entire non-refundable credit to the injured spouse, regardless of who is claiming the credit or dependents on Form 8379.

- (6) For 2018 and subsequent; Include Qualified Business Income deduction (QBID) with the standard or itemized deductions. The QBID will be allocated as a percentage of each spouse's Qualified Business Income if the Qualified Business Income (QBI) can be determined. For more information on what is considered Qualified Business Income, see Form 1040 Instructions or Publication 535, Business Expenses. If an allocation of QBI cannot be determined and each spouse has QBI, split the allocation of QBID in half (50/50).
- (7) Student loan interest deduction, IRA deduction, etc., should be allocated to the spouse obligated to the loan, owner of the IRA, etc. However, if the taxpayer allocates any of these deductions differently, accept the taxpayer's allocation as entered on Form 8379.

Reminder: If using the IAT IS Results Allocation Worksheet and the base tax after non-refundable credits is zero, allocate the entire non-refundable credit to the injured spouse, regardless of who is claiming the credit or dependents on Form 8379.

- (8) When the Standard Deduction is taken along with Charitable contributions allocate the Charitable contributions as entered on the Form 8379. If the taxpayer did not allocate the Charitable contributions split the unallocated Charitable contributions in half (50/50) for each spouse. Send a letter informing the taxpayer we split the Charitable contributions. A letter is not needed for Community Property or Non-Community Property Short Cut (SC) 1.
- (9) Withholding credits must be verified and allocated to the spouse to whom they belong.

If verification reveals	Then
Withholding credit is more than reported on the joint return and the income has been reported on the joint return	Allow the additional credit (TC 806) Input the TC 806 first with HC 1, then input your TC 808/809/810/811 with a PDC for 1 cycle.
Withholding credit is less than reported on the joint return	Do not adjust if within the IRS tolerance guidelines per IRM 21.5.1.4.12, Tolerances.
Withholding credit is less than reported on the joint return, is greater than tolerance, and the income has been reported on the joint return	Adjust the account per income documents. Input TC 807 first with HC 1, then input TC 808/809/810/811 with a PDC for 1 cycle.

- (10) When a breakdown is not provided by the taxpayer, allocate estimated tax payments as follows: Divide the injured spouse's Married Filing Separate (MFS) tax by the sum of the MFS tax for both spouses and multiply that amount by joint estimated tax payments.

Multiply		By		Total
Injured spouse's MFS tax Both spouses' MFS tax	×	Joint estimated tax payments	=	Injured spouse's portion of estimated tax payments. Note: If there is no tax and the taxpayer did not allocate the payments, the form is incomplete. See IRM 21.4.6.5.8.7(2), Incomplete Form 8379 Signed or Filed with Original Return.

- (11) Earned Income Tax Credit (EITC) must be allocated if the injured spouse has qualifying earned income and EITC was included on the original tax return.

Reminder: We are responsible for correcting the taxpayer's account to reflect the correct information. Refer to IRM 21.5.1, General Adjustments, for tolerance considerations.

- (12) Review question 5 on Form 8379 to determine if the taxpayer resides in a community property state. Refer to IRM 21.4.6.5.9 (3), **Community Property Allocation**, for a list of community property states.

Caution: The domicile of a person does not change merely because of entry into the military and being stationed in another jurisdiction. For further information, see IRM 25.15.5.4, Domicile.

If	And	Then
1) Question 5 is checked "yes" or "no"	Box checked is correct for state taxpayer resides	Process Form 8379 based upon box checked.
2) Checked "yes"	A non-community property state is entered on line 5	Process Form 8379 without regard to community property laws.
3) Checked "yes"	A community property state is entered and the address on ENMOD is a non-community property state	Process Form 8379 based upon the box checked and state provided.
4) Checked "no"	A community property state is entered	Process Form 8379 based upon community property laws of that state.
5) Checked "no"	Information indicates taxpayer resided solely in a community property state	Process Form 8379 based upon community property laws of that state.
6) Left blank	Information on return, W-2s, or entity indicates taxpayer resided solely in a non-community property state	Process Form 8379 without regard to community property laws.
7) Left blank	Information indicates taxpayer resided solely in a community property state	Process Form 8379 according to community property laws of that state.
8) Left blank or checked "yes"	Information indicates taxpayer may have resided in both types of states, or in two or more community property states	<ol style="list-style-type: none"> 1. Attempt to telephone taxpayer. See IRM 21.4.6.5.8.7(2), Incomplete Form 8379 Signed or Filed with Original Return. 2. Accept an oral response to line 5. 3. If unable, to reach taxpayer by telephone see IRM 21.4.6.5.8.9, Form 8379, No Consideration Procedures.
9) Checked "Yes" or "No"	Information indicates taxpayer resided solely in a community property state and taxpayers provided a signed premarital agreement.	Accept the taxpayer's allocation of income and other items on the Form 8379 and process Form 8379 without regard to community property laws.
10) Checked "Yes" or "No"	Information indicates taxpayer resided solely in a community property state and taxpayers mention premarital agreement, but did not provide the signed agreement.	<p>Send a 3179C Refund Offset to Treasury Offset Program (TOP) and Injured Spouse Inquiries, letter to request the signed premarital agreement and suspend the case for 40 days.</p> <ol style="list-style-type: none"> a. If a signed premarital agreement is received, process Form 8379 without regard to community property laws. b. If no response is received, process Form 8379 based upon community property laws of that state.

Note: If the injured spouse indicates on Form 8379, line 5b, that their marriage was recognized under the laws of the community property state(s) listed on line 5a, allocate items based on the instructions provided in the table above. However, if injured spouse indicates on Form 8379, line 5b, that their marriage was **NOT** recognized under the laws of the community property states(s) listed on line 5a, allocate items based on the instructions provided in IRM 21.4.6.5.8.4.1, **Same-Sex Spouses**

- (13) If the Form 8379, Injured Spouse Allocation, is filed with the original return and the account is in zero or debit balance with no math error, do not consider the Form 8379. If the Form 8379 is filed by itself, and there was no offset on the module or a corrected math error has created a balance due, you should not consider the Form 8379. See IRM 21.4.6.5.8.9, Form 8379, No Consideration Procedures, for instructions.

21.4.6.5.8.4.1
(10-01-2015)

Same-Sex Spouses

- (1) In *Obergefell v. Hodges*, 576 U.S. (2015), the United States Supreme Court held that (1) all states must allow same-sex couples to marry on the same terms and conditions as opposite-sex couples, and (2) states must recognize lawful same-sex marriages performed in other states. Because the IRS recognizes marriages that are validly entered under state law, couples in same-sex marriages must be treated the same as couples in opposite-sex marriages for federal tax purposes, including procedures for processing Form 8379.
- For federal tax purposes, the terms spouse, husband, and wife mean an individual lawfully married to another individual. The term husband and wife mean two individuals lawfully married to each other.
 - The terms spouse, husband, and wife do not include individuals who have entered into a registered domestic partnership, civil union, or other similar formal relationship not denominated as a marriage. The term husband and wife does not include couples who have entered such a formal relationship, and the term marriage does not include such a formal relationship. The term marriage also does not include a marriage entered under foreign law unless that marriage would be recognized in a state, possession, or territory of the United States.
- (2) The rules for applying state community property laws for injured spouse allocations differ from non-community because the state law determines whether the couple is subject to community or non-community property laws.
- (3) Whether a State recognized same-sex marriage during the tax year on the Form 8379 does not affect if a taxpayer is entitled to injured spouse relief. It does not matter where a taxpayer resides. The question is only whether the taxpayer is legally married, i.e., was married in a state or other jurisdiction that recognizes same-sex marriage. If the answer is yes, the taxpayer qualifies for injured spouse relief.

Note: Community property allocations are dependent upon whether the states recognized community property rights for same-sex marriage. We cannot properly calculate their entitlement to injured spouse allocations (for federal tax purposes) without knowing whether the state community property laws apply.

- (4) For same-sex couples residing in a non-community property state, process the Form 8379 the same as opposite-sex couples.

- (5) For same-sex couples residing in community property states, the application of community property laws in processing the Form 8379 filed by a same-sex spouse will depend on whether the couple's state of domicile recognized same-sex marriage during the tax year for which the injured spouse claim is made. Once a state recognizes a same-sex marriage, community property laws apply to property held by those spouses.
- Of the 9 community property states, only Louisiana and Texas did not recognize same-sex marriages before Obergefell was decided.
 - Arizona, Idaho, Nevada, and Wisconsin recognized same-sex marriages starting in late 2014.
 - California and New Mexico recognized same-sex marriages starting in mid to late 2013. Washington recognized same-sex marriages starting in late 2012.
 - Guam and Puerto Rico community property jurisdictions recognized same-sex marriages starting in mid 2015.
- (6) Process the Form 8379 using non-community property rules if the taxpayer marks "No" for question 5b on Form 8379 because their marriage was **NOT** recognized under the laws of the community property state(s) listed on Form 8379. However, ignore the "No" answer to question 5b and process the Form 8379 the same as opposite-sex couples if the tax year listed on Form 8379 meets the following:

If	Then
The state where same-sex couple resided during the tax year listed on Form 8379" is	The refund of tax year listed on Form 8379 for which community property laws may be applied if the tax year is:
Louisiana and Texas	2015 and after
Arizona, Idaho, Nevada, and Wisconsin	2014 and after
California and New Mexico	2013 and after
Washington	2012 and after

21.4.6.5.8.5
(03-17-2015)
Form 8379 Pre-Offset

- (1) On all Forms 8379, issue the Injured Spouse's portion of the refund in "**one name only**" unless the revised Form 8379 (Rev. 11-2016 (MeF) and Rev. 11-2016) "Issue in both names" box on line 11 is checked. For prior revisions of Form 8379, always issue the Injured Spouse's portion of the refund in "**one name only**" even if the **one name only** box on line 11 is **not checked**.
- a. If the injured spouse is the primary taxpayer and Part II, line 11, is **not checked** on Form 8379 (Rev. 11-2016 (MeF) and Rev. 11-2016), input a TC 290 for .00 with RN 810, RC 086, SC 7 and the dollar amount of the allocated refund.
 - b. If the injured spouse is the primary taxpayer and Part II, line 11, box is **checked** on Form 8379 (Rev. 11-2016 (MeF) and Rev. 11-2016), issue the refund in both names. Input a TC 290 for .00 with RN 808, RC 086, SC 7 and the dollar amount of the allocated refund.

- c. If the injured spouse is the secondary taxpayer and Part II, line 11, is **not checked** on Form 8379 (Rev. 11-2016 (MeF) and Rev. 11-2016), input a TC 290 for .00 with RN 811, RC 086, SC 7 and the dollar amount of the allocated refund.
- d. If the injured spouse is the secondary taxpayer and Part II, line 11, box is **checked** on Form 8379 (Rev. 11-2016 (MeF) and Rev. 11-2016), issue the refund in both names. Input a TC 290 for .00 with RN 809, RC 086, SC 7 and the dollar amount of the allocated refund.

Note: The above results in generating 2 refunds (TC 846) and the appropriate Bypass Indicator (BPI) will automatically be set with the input of the RN 808/RN 810 or RN 809/RN 811. Do not make an entry in the Amended Claims Date (AMD-CLMS-DT) field.

- (2) If there are no IRS debts, which must be by-passed and the address on ENMOD is not different than the address on the Form 8379, refer to paragraph (1) above to input the adjustment for the injured spouse's portion of the overpayment.

Note: RNs 808/809 will generate the refund in both names. RNs 810/811 will generate the refund in one name only.

- (3) Ensure there are no freeze codes on the account that would release by the input of a TC 290 other than the -R freeze.
- (4) If there are any IRS debts which must be by-passed or the address on ENMOD is different than the address on the Form 8379, issue a manual refund for the injured spouse's portion of the overpayment.

21.4.6.5.8.6
(10-01-2021)
Form 8379 Post-Offset

- (1) On all Forms 8379, issue the Injured Spouse's portion of the refund in "**one name only**" unless the revised Form 8379 (Rev. 11-2016 (MeF) and Rev. 11-2016) "Issue in both names" box on line 11 is checked. For prior revisions of Form 8379, always issue the Injured Spouse's portion of the refund in "**one name only**" even if the **one name only** box on line 11 is **not checked**.
- (2) Determine the TC 898 offset to be reversed. There may be more than one on the account. See IRM 21.4.6.5.10.3, Determining the Injured Spouse's Refund.

Reminder: The time limit for reversing an offset to Office of Child Support Enforcement (Agency Codes 1 and/or 2) does not apply when processing Injured Spouse Allocation cases.

- (3) Compare the Injured Spouse's refund allocation with the TC 898 on the module and reverse only the net amount needed for the injured spouse's refund.

Note: Net all TOP offset transaction codes with the same Offset Trace Number (OTN) to determine the TOP offset amount available to reverse. See IRM 21.4.6.4.2.11, Netting TOP Offsets and Reversals.

- (4) Input TC 766 with the OTN to reverse the TC 898 with the same OTN, RC 086, SC 7 & HC 2 with the correct blocking series. A HC 2 is not needed when box 11 is checked.

Note: A subsequent transaction with CRNs 808/809 is not needed to issue the refund in both names.

Note: If the account requires the reversal of three or more TC 898's, you must issue a manual refund. See IRM 21.4.6.5.10.6, Issuing the Injured Spouse Refund.

Reminder: Unpostable conditions must be resolved before inputting any TOP offset reversal.

(5) Input 290 .00, RN 810 or RN 811, RC 086, SC 7 with the appropriate PDC or issue a manual refund if applicable.

Note: See IRM 21.4.6.5.10.4 (2), Injured Spouse Refund-TOP Offset, for interest computation.

Caution: An account may have both a tax offset and a TOP offset. Reverse the TOP offset first using the appropriate hold code and then transfer any additional amount allocated to the Injured Spouse from the tax offset. In this situation, a manual refund is required to issue the refund to the injured spouse.

21.4.6.5.8.7
(01-21-2022)
**Incomplete Form 8379
Signed or Filed with
Original Return**

(1) Review the form for the signature of the injured spouse, unless it was filed with an original signed return.

Note: Request the original return from Files, if it was not received with Form 8379 and the TC 150 is blocked 92.

(2) If the Form 8379, Injured Spouse Allocation, is incomplete, attempt to contact the taxpayer or authorized representative by phone and request the missing information such as:

- Allocation of income to each taxpayer
- Allocation of itemized deductions (Schedule A)
- Allocation of exemptions other than personal exemptions
- Allocation of credits to each taxpayer
- Allocation of payments if unable to determine to whom they belong
- Form W-2, Wage and Tax Statement. If unable to verify with original return, use command codes (CC) IRPTR, SUPOL, IMFOL, RTVUE, TRDBV, or Return Request Display (RRD).

For any of the scenarios shown above make two telephone attempts within 3 business days of each other and document CII case notes with the dates and times of these attempts. If leaving a message for the taxpayer or authorized representative, request a call back within 2 business days. If unable to contact the taxpayer or authorized representative by telephone then send a 3179C, **Refund Offset to Treasury Offset Program (TOP) and Injured Spouse Inquiries** letter to request the missing information and suspend the case for 40 days, suspend the case for 60 days if the taxpayer is abroad. Request via telephone or letter that the taxpayer send a signed copy of the form via fax or mail and provide any other missing information. See IRM 21.4.6.3, Disclosure, for guidelines for general disclosure and leaving information on answering machines or voice mail.

If unable to reach the taxpayer by telephone and no reply is received, see IRM 21.4.6.5.8.9, Form 8379, No Consideration Procedures and return a copy of the Form 8379, if available.

Note: For 2018 and subsequent; If the Exemption portion is blank or shows zero or the total credits are not allocated, the form is not considered "Incomplete". Please follow IRM 21.4.6.5.8.4 (5) Note Review the Form 8379 for Completeness regarding when the exemptions and/or the total credits are not allocated.

21.4.6.5.8.8
(10-01-2023)
**Form 8379 Unsigned
and Filed Without
Original Return**

- (1) If a Form 8379, Injured Spouse Allocation, is unsigned and was not filed with the original signed return or attached to a signed Form 1040-X, Amended U.S. Individual Income Tax Return:
 1. Determine all other missing information.
 2. Input a TC 971, AC 071 if needed.
 3. Request via telephone or letter that the taxpayer send a signed copy of the form via fax or mail and provide any other missing information. See IRM 21.4.6.5.8.7, Incomplete Form 8379 Signed or Filed with Original Return for instructions and suspend the case for 40 days, 55 days for overseas taxpayers.
- (2) If the taxpayer does not provide the missing information within 40 days, 55 days for overseas taxpayers, see IRM 21.4.6.5.8.9, Form 8379, No Consideration Procedures, for instructions.

21.4.6.5.8.9
(10-01-2023)
**Form 8379, No
Consideration
Procedures**

- (1) Form 8379, Injured Spouse Allocation, should not be considered:
 - a. If a Form 8379 is filed for any filing status except Married Filing Joint.
 - b. If the Form 8379 is not attached to the joint Form 1040 or Form 1040-X, but is instead filed separately (after offset), and is received after the time allowed, See IRM 21.4.6.5.8.10, Time Period for Submitting Form 8379.
 - c. If Married Filing Joint Federal tax debt is the only tax debt owed (by the same two spouses) and the debt is more than the existing overpayment.

Note: Form 8379 filed post-offset would be worked per normal reversal procedures send the taxpayer a letter of explanation regarding the actions taken.

- d. The injured spouse has no payments or refundable credits.
- e. The injured spouse's portion of tax exceeds their refundable credits.
- f. If the Form 8379 is filed with the original return and the tax period being worked is in zero or debit balance with no math error.
- g. If the Form 8379 is filed by itself, and there was no offset on the tax period being worked or a corrected math error has created a balance due.

Note: For either situation (f) or (g) above, advise the taxpayer that the Form 8379 cannot be processed when there is a balance due or no overpayment exists on the account. If, later, they file an amended return and a credit or overpayment is generated from the amended return, the injured spouse could, at that time, file a new Form 8379, Injured Spouse Allocation.

- h. The case is suspended for missing and/or additional information and no reply is received within 40 days, 55 days for overseas taxpayers.

- i. If the taxpayer wants to claim Innocent Spouse Relief, but mistakenly uses Form 8379, Injured Spouse Allocation. Return the Form 8379 to the taxpayer advising of the mistake and include a blank Form 8857, Request for Innocent Spouse Relief, with instructions and Pub 971, Innocent Spouse Relief.
- j. If a Letter 105C, Claim Disallowed was previously sent because the return was not timely filed, advise the taxpayer that we cannot consider Form 8379, Injured Spouse Allocation.
- k. An agency refund (TC 899 or TC 971 AC 599) was issued for the entire amount of the offset.
- l. The injured spouse is not entitled to a refund, based on community property laws (tax offsets only).
- m. The RSED has expired see IRM 25.6, Statute of Limitations.

Note: The above list is **not** all inclusive, there may be other situations that may warrant no consideration.

- (2) Send the taxpayer a Letter 916C, Claim Incomplete for Processing; No Consideration, letter advising the taxpayer why the allocation is not being considered. If the taxpayers are no longer living at the same address, send the letter to the injured spouse and a copy of the letter to both spouses. Manual copying is not required in instances in which a correspondex letter would systemically be sent to both addresses. Send one letter to the Injured Spouse to the address on the Form 8379 and a copy to both spouses to the address of record.

Exception: Use the following explanations for tax or TOP offset when not considering Form 8379 due to the time limitations per IRM 21.4.6.5.8.10:

- a. If the timeframe for submitting Form 8379 is not met for a **tax offset** or **TOP Offset**, advise the taxpayer **We are sorry, we cannot process your Form 8379, Injured Spouse Allocation. Your Form 8379 was submitted beyond the period when we will consider allocating a joint refund that was already paid or offset. The timeframe for filing Form 8379 for Federal Tax Debts or TOP Debts is the same as the timeframe for filing the claim for refund (generally 3 years from the date the return was filed or 2 years from the date that the tax was paid, whichever is later, but there are numerous exceptions see IRC 6511).**
- (3) Input a TC 290 .00 with the appropriate blocking series (e.g. blocking series 00 if the original return is attached to the allocation or blocking series 05 if the original return is not attached). Use a HC 3, RC 086, SC 7 when inputting the TC 290 for .00, see IRM 21.5.3.4.6.3, No Consideration Procedures. See IRM 21.5.1.5.3 CII Source Documentation, for Blocking series (BS) and NSD adjustment examples.
 - (4) If TC 150 or TC 976 is in blocking series 92 in error (Injured Spouse is not annotated on the top of the Form 1040 and no Form 8379 is attached to the document):
 - Input TC 571 to release the -R freeze or TC 290 .00 to release the -A freeze, **do not** send 916C letter
 - Change your control base from DMFC/DMFE to DUPF
 - If there is no -R or -A freeze, there is nothing to release. Do not input a TC 571 as it will create an UPC 168 RC 0. A TC 290 .00 is also not required if there is no credit balance to release

- Close the base as normal **no action**

Note: For non-filer returns, see IRM 21.4.6.5.33.2, Non-Filer Returns for Economic Impact Payments (EIPs).

- (5) If the taxpayer responds to a Letter 916C, Claim Incomplete for Processing; No Consideration, research CII for an explanation for the previous no consideration. If the taxpayer sends additional information and the Form 8379, Injured Spouse Allocation, can be allowed, follow normal injured spouse processing procedures. If the Form 8379 cannot be allowed, send the taxpayer a Letter 916C with the explanation for the no consideration.
- (6) If the taxpayer responds to a previous Letter 105C, Claim Disallowed, or Letter 106C, Claim Partially Disallowed, research CII for an explanation of the previous denial and explain the reason for the denial to the taxpayer. If the taxpayer sends additional information and the Form 8379, Injured Spouse Allocation, can be allowed, follow normal injured spouse processing procedures. If the injured spouse allocation cannot be allowed, do not send another disallowance letter. See IRM 21.5.3.4.6.2, Appeals and Responses to Letter 105C and 106C, for further instructions.

21.4.6.5.8.10
(09-06-2022)

**Time Period for
Submitting Form 8379**

- (1) Form 8379, Injured Spouse Allocation, is not a separate claim. See IRM 21.5.3.2(3), What Are Claims for Credit, Refund, and Abatement?. The non-debtor spouse uses the form to provide additional information to the IRS regarding their 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).
- (2) Taxpayers may file Form 8379 with the return or as a standalone form.
 - a. Some taxpayers will attach Form 8379 to their joint Form 1040 or Form 1040-X, see IRM 21.4.6.5.8.10.1, Form 8379 Attached to Joint Form 1040 or Form 1040-X.
 - b. Others may file Form 8379 after filing Form 1040 or Form 1040-X, see IRM 21.4.6.5.8.10.2, Form 8379 Not Attached to Joint Form 1040 or Form 1040-X.
- (3) If the IRS offsets the refund claimed on a Form 1040 or Form 1040-X (in whole or in part) to a Federal tax debt or a TOP debt, the IRS does not issue a Notice of Claim Disallowance, because no claim has been disallowed.
- (4) If the Form 8379 is not attached to the joint Form 1040 or Form 1040-X, but is instead filed separately, the timeframe for filing Form 8379 for Federal Tax Debts or TOP Debts is the same as the timeframe for filing the claim for refund (generally 3 years from the date the return was filed or 2 years from the date that the tax was paid, whichever is later, but there are numerous exceptions see IRC 6511, and IRM 25.6.1.10.2.7, Claims for Credit or Refund – General Time Period for Submitting a Claim. The date of the offset by the IRS or BFS is not relevant for the purposes of determining timeliness of the request to reallocate the overpayment.

Caution: For late filed returns with pre-paid credits, you must figure the 2-year period from the date the tax is considered paid. Pre-paid credits are considered paid as of the due date of the return determined without regard to extensions.

21.4.6.5.8.10.1
(09-22-2017)

**Form 8379 Attached to
Joint Form 1040 or Form
1040-X**

- (1) If the Form 8379 is attached to the joint Form 1040 or Form 1040-X and the Form 1040 or Form 1040-X is timely under IRC 6511, the Form 8379 is timely for any refund requested on Form 1040 or Form 1040-X.
- (2) If the jointly filed claim on Form 1040, U.S. Individual Income Tax Return, or Form 1040-X, Amended U.S. Individual Income Tax Return, was not timely per IRC 6511(a), or the IRS determines there is no overpayment available for credit or refund per § 6511(b), then the Form 8379, Injured Spouse Allocation, is not considered as there would be no joint credit or refund to offset and the allocation irrelevant.
- (3) If the Form 1040 or Form 1040-X was not timely per IRC 6511(a) and a 105C, Claim Disallowed, letter was previously sent, send a 916C, Claim Incomplete for Processing; No Consideration, letter and advise the taxpayer that we cannot consider Form 8379, Injured Spouse Allocation, since the return was not timely filed. See IRM 21.4.6.5.8.9, Form 8379, No Consideration Procedures.
- (4) If the non-debtor spouse resubmits the Form 8379 with required documentation for Appeals consideration during this period, AM may reconsider its rejection of the allocation before forwarding the new Form 8379 to Appeals. If AM accepts the resubmitted allocation it is unnecessary to forward the case to Appeals. See IRM 21.4.6.5.10, Allocation of Injured Spouse Form 8379.
- (5) If the Form 1040 or Form 1040-X has been determined to have no overpayment available for credit or refund then a 916C letter must be sent to advise the taxpayer why the allocation is not being considered. See IRM 21.4.6.5.8.9, Form 8379, No Consideration Procedures.

21.4.6.5.8.10.2
(09-06-2022)

**Form 8379 Not Attached
to Joint Form 1040 or
Form 1040-X**

- (1) If the jointly filed claim on Form 1040, U.S. Individual Income Tax Return or Form 1040-X, Amended U.S. Individual Income Tax Return, was not timely per IRC 6511 (a), or the IRS determines there is no overpayment available for credit or refund per IRC 6511 (b), then there would be no joint credit or refund to offset or reallocate pursuant to Form 8379.
- (2) If the jointly filed claim on Form 1040 or Form 1040-X was timely per IRC 6511(a), and the IRS determines an overpayment exists, and an amount is available for credit or refund per IRC 6511(b), then the amount of the joint overpayment properly allocated to the debtor spouse will be offset against the debtor spouse's debts. The non-debtor spouse may submit Form 8379, Injured Spouse Allocation, to request the return of their share of the joint overpayment. The Form 8379 must be received within the period for submission per IRM 21.4.6.5.8.10, Time Period for Submitting Form 8379.
 - For Federal tax debts, The IRS will issue a CP 49 notice advising the taxpayer to which account the overpayment was applied.
 - For TOP offsets, BFS issues the Notification of Offset. That notice provides the creditor agency contact information.
- (3) For both federal tax debts and TOP debts, if the IRS receives the Form 8379 from the non-debtor spouse and it wasn't filed within the applicable IRC 6511 period for the claim for refund, send a 916C letter and advise the taxpayer that the IRS cannot process the allocation because Form 8379 was not submitted timely. See IRM 21.4.6.5.8.9, Form 8379, No Consideration Procedures, for instructions on what to include in the letter.

Caution: The general timeframe for filing a claim for refund is 3 years from the date the return was filed or 2 years from the date the tax was paid, whichever expires later. But note that there are numerous exceptions which would allow a taxpayer more time to file a claim for refund, and consequently, more time to file the associated Form 8379. See IRC 6511 and IRM 25.6.1.10.2.7, Claims for Credit or Refund – General Time Period for Submitting a Claim.

21.4.6.5.8.11
(10-01-2021)

Exam, CI and IVO Cases

- (1) Form 8379, Injured Spouse Allocation, are not sent to EXAM. However, an EXAM freeze on an account which also has a -R freeze, may affect the timing when the injured spouse allocation is worked. The following table may assist you in resolving injured spouse cases when an EXAM freeze (-L, -Q, -E), CI freeze (-Z or Z-) or IVO Freeze (-E) is present. Before reversing any offset to Office of Child Support Enforcement (Agency Codes 1 and/or 2), see IRM 21.4.6.4.2.4, **Child Support TOP Offsets**.

Note: Do not route a copy or your original injured spouse case to EXAM, Criminal Investigation (CI) or IVO.

Caution: Use appropriate Priority Code when adjusting accounts with an open -L freeze.

IF	And	Then
1) Taxpayer's account has a -E freeze with a TC 971 AC 128 and a TC 810, refer to IRM 21.5.6.4.10 (3) -E Freeze, for a list of TC 810 conditions.	A TC 811 has posted in the same cycle to release the portion of the refund not related to the audit issue.	Issue a letter to inform the taxpayer of the amount due to them except for the TC 810 currently under review. Caution: When the overpayment consists of Premium Tax Credit (PTC) only or other various audit combinations (i.e. EITC, ACTC, and /or Adoption Credit) and a TC 811 is not present, do not consider the Form 8379 allocation. Send a Letter 916C , Claim Incomplete for Processing; No Consideration, informing them upon completion of the review they can resubmit a new Form 8379, Injured Spouse Allocation, if needed. Refer to IRM 21.5.3.4.6.3 No Consideration Procedures.

IF	And	Then
2) Taxpayer's overpayment is being held by EXAM (-L or -A freezes) pending review of their tax return	AIMS status is 08 or less and no EITC is involved	Work your case.
3) Taxpayer's overpayment is being held by EXAM (-L or -LE freezes) pending review of their tax return	AIMS status is 08 or less and EITC is involved	Work your case up to the amount of EITC. Issue a letter to the taxpayer informing them upon completion of their Examination they can resubmit a new Form 8379, Injured Spouse Allocation, if needed. Explain to the taxpayer that any amount of EITC allowed will be allocated to the spouse who earned the income upon which the EITC is based.
4) Taxpayer's overpayment is being held by EXAM (-L or -LE freezes) pending review of their tax return	AIMS status is greater than 08	Issue a letter to the taxpayer informing them that the allocation of Form 8379 will be computed after the examination is completed. Suspend your case and change your control base to a monitor (M) status. Use activity code IS-PN-EXAM. Upon completion of the examination, work your case. Secure a copy of the return, if necessary. Contact Exam for a copy of the return. Contact the taxpayer to obtain a copy of the return, if not readily available from Exam.
5) If offset has occurred		Work the case regardless of EXAM status.
6) Taxpayer's overpayment is not being held by EXAM, however, there may be a -L or -LR freeze on the account by EXAM pending review of their tax return	The TC 570 creating the -R freeze has the same DLN as the original return with blocking series 92	Process the case regardless of the AIMS status.
7) Taxpayer's overpayment is being held by -Q Freeze.	There is a TC 576 on the module	Hold until the -Q freeze is released with TC 572 by EXAM or IVO. Suspend your case and change your control base to a monitor (M) status.

IF	And	Then
8) You have an Injured Spouse and the case is suspended to CAT-A for the First-Time Homebuyer Credit (FTHBC), Earned Income Tax Credit (EITC) and/or Adoption Credit	The case is Selected	Work the case up to the amount of the FTHBC, EITC and/or Adoption Credit. Issue a letter to the taxpayer informing them upon completion of their Examination they can resubmit a new Form 8379, Injured Spouse Allocation, if needed for any additional credit that is allowed. For more information on FTHBC, refer to IRM 21.4.6.5.28, First-Time Homebuyer Credit, See Exhibit in IRM 21.5.3-4, First-Time Homebuyer Credit – Additional CAT-A Criteria or <i>IRM 21.6.3.4.2.10</i> , First-Time Homebuyer Credit.
9) Taxpayer's overpayment is being held by CI pending review of their tax return	There is a -Z or Z- Freeze on the account Questionable Refund Program (QRP)	Do not refer your case to CI or EXAM. Do not send a letter to the taxpayer. If the tax module shows a Project Code of 0173, 0263, 0390, 0584, 0603 or 0611, these QRP cases are under the control of CI SDC and notice has been sent to the taxpayer. If you receive a call and the account shows any type of CI involvement you may advise the taxpayer that their return is being reviewed but do not advise of CI involvement. Suspend your case and change your control base to a monitor (M) status. Upon completion of the examination, work your case. Secure a copy of the return, if necessary. Contact Exam or CI for a copy of the return. Contact the taxpayer to obtain a copy of the return, if not readily available from Exam or CI.
10) Taxpayer's overpayment for a prior year is being held by CI pending review of their tax return for that year	There is a -Z or Z- Freeze on the prior-year account, Questionable Refund Program (QRP)	Work your case.
11) The taxpayer submits Form 1040-X after an audit reconsideration	There is a Form 8379 attached	Send letter 3179C, asking the taxpayer to resubmit their Form 8379, if there is a refund after the reconsideration is complete.

21.4.6.5.9
(10-01-2020)
**Community Property
Allocation**

- (1) Different community property laws may apply to allocations regarding overpayments offset to Federal tax or TOP debts. Follow IRM 25.15.5, Relief from Joint and Several Liability, Relief from Community Property Laws, or instructions on SERP under Local/Sites/Other, Accounts Management Services (AMS) Worksheets, Community Property Worksheets, Injured Spouse Allocation Worksheet Instructions for instructions pertaining to injured spouse cases filed when community property is involved.
 - (2) A Federal agency, as creditor, can assert a right to the non-obligated spouse's share of the joint refund in those states where the community property can be reached for payment of the debts of one spouse. The IRS can assert its rights as creditor in collecting tax debts through tax offset but may not assert this right on behalf of other Federal agencies in collecting their debts through TOP offsets. Care must be taken to determine which laws apply in each circumstance.
 - (3) The community property states are:
 - Arizona
 - California
 - Idaho
 - Louisiana
 - Nevada
 - New Mexico
 - Texas
 - Washington
 - Wisconsin
 - The U.S. Territories of Guam and Puerto Rico are also community property jurisdictions (Worked in Philadelphia International)
- Note:** Alaska and Oklahoma are not community property states for the purpose of processing injured spouse allocation cases. See IRM 25.15.5.2 Community Property States.
- (4) The IRS determined that Earned Income Tax Credit (EITC) must be allocated without regard for community property laws. When processing an injured spouse form against a Treasury Offset Program offset, all EITC must be allocated on Form 8379 Injured Spouse Allocation Worksheet prior to applying each state's applicable laws to the remaining overpayment. This has no effect on injured spouse forms filed against tax offsets since the IRS creditor rights permit an offset based on the applicable state law regardless of how EITC may be allocated.
 - (5) Special exceptions exist for many of the community property states identified above, Refer to IRM 25.15.5, Relief from Joint and Several Liability, Relief from Community Property Laws.
 - (6) Taxpayers with a prenuptial agreement can opt out of state community property laws and elect to have income treated as if they were domiciled in a non-community property state, see IRM 25.15.5.3, Treatment of Community Income in General, IRM 25.15.5.5, Community and Separate Property, and IRM 25.18.1, **Community Property, Basic Principles of Community Property Law** for additional information.

21.4.6.5.10
(06-17-2022)
**Allocation of Injured
Spouse Form 8379**

- (1) Form 8379 Allocation worksheets are located on SERP under Local/Sites/Other.
- Community Property Worksheets are located within the Accounts Management (AM) tab.
 - Non-Community Property Worksheets are located within Accounts Management (AM) as well as Accounts Management Services (AMS).

Note: A few paper copies should be kept in each area that works Form 8379, **Injured Spouse Allocation**, to photocopy when there is a problem with one of the electronic worksheets or the computers may be down.

Reminder: When you have an unusual situation and the figures cannot be plugged in the SERP Accounts Management Services (AMS) electronic worksheets, use the paper version to determine the injured spouse share of the refund.

Caution: Review Injured Spouse Allocation Worksheet Instruction on SERP to ensure proper input of the items required on the worksheets.

- (2) Use Form 8379 Injured Spouse Allocation Worksheet, to compute the injured spouse share of the refund. You must attach all Form 8379 Injured Spouse Allocation Worksheets used to determine the Injured Spouse share of the refund to your case file, unless one of the shortcuts apply. The use of the shortcut methods is optional, see paragraphs (4), (5) and (6) below. The computation is carried out to four decimal places throughout the entire calculation, then rounded to two decimal places after figuring the injured spouse's share of the joint tax.

Note: If the taxpayer inquires as to how we determined the injured spouses share of the refund, provide them with a copy of Form 8379 Injured Spouse Allocation Worksheet. If one of the shortcuts methods was used, send the taxpayer an explanation of how the refund was allocated. You should verify the computation is correct, before sending the Form 8379 Injured Spouse Allocation Worksheet to the taxpayer. If you do not work injured spouse, send a Form 4442, Inquiry Referral, to the campus where the case was originally worked.

Exception: Injured Spouse cases originally worked and closed in Philadelphia, send the Form 4442 to Memphis Accounts Management.

If you are on Application 20 or Application 186, not trained on Injured Spouse, and a call meets the criteria in IRM 21.4.6.5.2, **Injured Spouse Inquiries** transfer the call to Application 35 using the Automated Call Distributor (ACD) = 92035 or the Infrastructure Upgrade Project (IUP) = 1035.

- (3) When using the Accounts Management Services (AMS) worksheet and the base tax after non-refundable credits is zero, allocate the entire non-refundable credit to the injured spouse, regardless of who is claiming the credit or dependents on Form 8379. IRM 21.4.6.5.8.4, **Review the Form 8379 for Completeness**, for further guidance. If the taxpayer attached Form 8901, Information on Qualifying Children Who Are Not Dependents, to the tax return, allocate the child tax credit as the taxpayer determines. In community property states, all joint amounts are divided equally, with the exception of EITC.

Note: Base tax is the tax from the tax tables, less any non-refundable credits, prior to the addition of any other taxes.

(4) Non-Community Property Allocation Shortcuts:

- a. When the injured spouse earned all the income and allocates all the credits to themselves. Notate Non-Community Property (NCP) Short Cut (SC) 1 on CII cases.
- b. If joint tax is zero, and no EITC is involved, the injured spouse's portion of the overpayment is their portion of the other refundable credits. Notate NCP SC 2 on CII cases.
- c. When the injured spouse has none of the income or refundable credits, none of the overpayment is the injured spouse's. Notate NCP SC3.

Note: You do not need to complete the Injured Spouse Allocation Worksheet when one of the shortcut methods apply. Notate, on the case notes, the shortcut method used. For all shortcut methods, if the Recovery Rebate Credit (RRC) is claimed and the injured spouse is entitled to half of the RRC. Notate RRC 50/50 after the appropriate shortcut method used. (Example: NCP SC1 RRC 50/50).

Note: If the Premium Tax Credit (PTC) is claimed and the PTC is split 50/50 you do not need to complete the Injured Spouse Allocation Worksheet. Notate PTC 50/50 after the appropriate shortcut method used. (Example: NCP SC1 PTC 50/50).

(5) Community Property Allocation Shortcuts:

For all of the Community Property Shortcut methods listed below, all conditions must be met before the shortcut can be used. These shortcuts are applicable to all Community Property States for TOP debt only, and:

- a. The only debt involved is a TOP debt owed by the other spouse or no debt is owed.
- b. There are no separate property items in the allocation, including EITC.

The injured spouse is entitled to one-half the joint overpayment. Notate CP SC 1 on CII cases.

(6) These shortcuts are applicable to Nevada, New Mexico and Washington tax and TOP debt, all conditions must be met before the shortcut can be used.

- a. The only debt involved is TOP and/or premarital Federal tax debt owed, by the other spouse or no debt is owed.
- b. There are no separate property items in the allocation. This includes EITC.

The injured spouse is entitled to one-half of the joint overpayment, Notate CP SC 2 on CII case.

(7) These shortcuts are applicable to California, Idaho and Louisiana Federal tax debt only, all conditions must be met before the shortcut can be used.

- a. The only debt owed is a Federal tax debt owed by the other spouse.
- b. There are no separate property items in the allocation. This includes EITC.

Note: For any of the shortcuts above, when working a Form 8379 and the debt indicator on CC INOLE is "N" for both taxpayers, do not release the overpayment with a TC 571. You will work the injured spouse case and issue a refund to the injured spouse for their share of the overpayment.

All of the overpayment may be applied to a Federal tax debt, if necessary. Divide the overpayment in half. If the other spouse's half does not pay all of the Federal tax debt, deduct from the injured spouse's half. Notate CP SC 3 on CII case.

Note: You do not need to complete the Injured Spouse Allocation Worksheet when one of the shortcut methods apply. Notate, on the CII case notes, the shortcut method used. For all shortcut methods, if the RRC is claimed and the injured spouse is entitled to half of the RRC. Notate RRC 50/50 after the appropriate shortcut method used. (Example: NCP SC1 RRC 50/50)

Exception: See IRM 21.4.6.5.9, Community Property Allocation.

21.4.6.5.10.1
(09-06-2022)
Allocation of Tax

- (1) Allocate items of income, deductions, and exemptions, as determined by the taxpayer on Form 8379, Injured Spouse Allocation, or as reported on their original return to arrive at the taxable income for each spouse. This is in accordance with Rev. Rul. 80-7.
 1. Determine the married filing separate (MFS) tax for each spouse.
 2. Determine the injured spouse percentage of joint tax by dividing injured spouse MFS tax by the sum of the MFS tax for both spouses.
 3. Compute the injured spouse's share of tax liability by multiplying the injured spouse percentage of tax by the joint tax on the return before deducting credits and adding other taxes.

21.4.6.5.10.2
(10-01-2023)
Allocation of Earned Income Tax Credit (EITC)

- (1) Rev. Rule. 87-52 allows for allocation of the Earned Income Tax Credit (EITC) shown on the joint return. If EITC is not shown on the joint return, do not figure EITC on the allocation.
- (2) Use the appropriate EITC table and worksheet, or CC EICMP with definer R for the tax year for which the form is being worked.
- (3) Determine a new, separate EITC that would be available for each spouse if that spouse had filed a separate return and if EITC were available on a MFS return. This is a theoretical situation used for computation only.

Note: Beginning in TY 2021, an exception was added to IRC 32 allowing some taxpayers to claim the EITC on MFS returns. It is not necessary to determine whether or not taxpayers would be eligible to claim the EITC on an MFS return. They are treated as filing separately for computational purposes only.

- (4) Compute each spouse's separate EITC, with (Y) indicator, based on each individual's earned income, using the same number of qualifying dependents used to compute the EITC on the joint return.
 - a. Do not split the qualifying dependents between the spouses.
 - b. Use the same column in the EITC table as used to determine the EITC on the original joint return.

- (5) Figure the injured spouse percentage of EITC by dividing the injured spouse's new separate EITC by the sum of the EITC for both spouses and multiply the percentage by the amount allowed on the joint return.

Note: If the allocation using the above formula results in no EITC for both spouse's due to a loss claimed on the joint return, the EITC is allocated to the spouse claiming the loss, since it is that loss that qualified the joint account for the EITC.

- (6) Provisions of the Heartland Disaster Tax Relief Act of 2008 allow impacted taxpayers to use their 2007 earned income for purposes of figuring any EITC for 2008 if the 2008 earned income is less than the 2007 earned income and:
- the main home on the applicable disaster date was in a Midwestern disaster area listed in Table 1 of Publication 4492-B, Information for Affected Taxpayers in the Midwestern Disaster Areas; or
 - the main home on the applicable disaster date was in a Midwestern disaster area as shown in Table 2 and the taxpayer was displaced from that home because of the severe storms, tornadoes, or flooding.
- (7) If the taxpayer qualifies to use their 2007 earned income, you will determine the EITC allocation based on the 2007 income not the 2008 income.
- (8) Under the Taxpayer Certainty and Disaster Tax Relief Act of 2020, taxpayers may elect to use their 2019 earned income to figure the EITC for 2020 if their 2019 earned income is more than their 2020 earned income.
- (9) Under the American Rescue Plan Act of 2021 (ARPA), taxpayers may elect to use their 2019 earned income to figure the EITC for 2021 if their 2019 earned income is more than their 2021 earned income.

21.4.6.5.10.3
(12-16-2022)
**Determining the Injured
Spouse Refund**

- (1) Compute the injured spouse share of the joint overpayment by subtracting the injured spouse's share of the joint tax liability, as well as any previous refunds or offsets to other IRS obligations, from the injured spouse's contribution toward the joint liability.

Note: The amount of the injured spouse's share of the joint overpayment is limited to the amount of the joint overpayment on the account prior to any offsets or refunds.

- (2) Research for Outstanding Balance Liabilities (OBLs) for both spouses before completing the allocation. Any amount of the overpayment credit that will offset to another tax obligation, attributable either individually or jointly to the injured spouse, must be subtracted from the injured spouse's share of the joint overpayment. See IRM 20.2.4.3, Availability Dates for Overpayments, and IRM 20.2.5.13, Underpayment Interest on Liabilities Paid by Credit/Offset, to determine the amount to satisfy the outstanding balance due.
- (3) Subtract any previous offset or non EIP refund, such as TC 820/TC 826, TC 840/TC 846, BMF or IRAF TC 896, attributable individually or jointly to the injured spouse, from the injured spouse's share of the joint overpayment.

If	Then
Offset is a TOP Offset	Continue computing the injured spouse's refund based on TOP offset instructions. See IRM 21.4.6.5.10.4, Injured Spouse Refund—TOP Offset.
Offset is a Tax offset	Continue computing the injured spouse's refund based on Tax offset instructions. See IRM 21.4.6.5.10.5, Injured Spouse Refund—Tax Offset.

- (4) Continue to determine the refund amount depending upon the type of offset that was made. Before reversing any offset to Office of Child Support Enforcement (Agency Codes 1 and/or 2), see IRM 21.4.6.4.2.4, **Child Support TOP Offsets**.

21.4.6.5.10.4
(01-21-2022)
**Injured Spouse
Refund-TOP Offset**

- (1) After deducting prior tax offsets and refunds, subtract from the remaining amount:
- Any injured spouse Treasury Offset Program offset, TC 898 (TOP offset) or TC 971 AC 598 (manual input of TOP offset).
 - Agency refunds of the other spouse's offset, TC 899 (TOP offset reversal) or TC 971 AC 599 (manual input of TOP offset reversal) type 2 or 3.

Caution: Be sure to reduce TC 899 or TC 971 AC 599 type 2 and 3 by any TC 899 or TC 971 AC 599 type 4 with the same OTN.

- (2) If interest was included in the refund that was offset, further computation is needed when the injured spouse is not entitled to all the overpayment. See IRM 20.2.4.3, Availability Dates for Overpayments.
- Use CC COMPA to compute the injured spouse's portion of the amount of credit interest based on the injured spouse's reversal amount. The **FROM** date will be 04/15/20XX (or availability date) and the **TO** date will be the posted TC 776 credit interest to date "DB-CR-INT-TO-DT>" found on TXMOD, which will result in the amount of offset credit interest the injured spouse is entitled to.

Note: If the injured spouse is entitled to the entire overpayment, this computation is not needed.
 - Add the amount of interest computed to the Form 8379 Injured Spouse Allocation Worksheet. The sum is the amount of the TOP offset reversal to be input as a TC 766. See IRM 21.4.6.5.10.6, Issuing the Injured Spouse Refund.

Certain taxpayers granted a disaster-related postponement of the filing deadline for 2019 tax returns (i.e., COVID-19) had their accounts subsequently adjusted to include the credit interest they were entitled to receive on prior interest-free refunds. These interest payments respectively carry a 23C date identical to the 23C date of each prior interest-free refund, were posted in cycles 202033 or 202035 as TC 776 and are accompanied with TC 971 AC 199. When the interest payment is present on a tax module, including its associated accrued interest amount (also posted as TC 776), **and the sum was offset with TC 898**, compute TC 766 as follows:

1. Compare the injured spouse's share of the joint return overpayment with the total return overpayment, determining its percentage – rounded to the fifth decimal point.

Example: The total of the 2019 joint return overpayment for the taxpayers is \$9,500, of which \$4,200 is the injured spouse's share. Thus, the injured spouse's portion of the joint return overpayment, calculated as a percentage, is .44210 ($\$4,200 \div \$9,500$).

2. Add the interest payment and its accrued interest, multiplying the total by the percentage determined in item 1) above. This result is then added to the injured spouse's share of the joint overpayment to obtain the TC 766 amount.

Example: Continuing the example above, an interest payment of \$46.83, plus accrued interest of \$0.66 was posted to the 2019 tax module for the taxpayer in cycle 202033 to allow interest on a joint return overpayment of \$9,500. The total interest payment of \$47.49 ($\$46.83 + \0.66) was then offset with TC 898. Multiplying the total interest payment of \$47.49 by the percentage determined above equals \$20.99 ($\$47.49 \times .44210$). When this amount is then added to the portion of the joint overpayment belonging to the injured spouse, it results in a TC 766 amount of \$4,220.99 ($\$4,200 + \20.99).

Note: If the interest payment and its associated accrued interest amount was offset with TC 898 to an OTN **other than** the OTN of the prior TC 898 on the module, two separate TC 766's are required: one for the overpayment principal of \$4,200 and another for its interest of \$20.99.

If the interest payment was **not** offset with TC 898, then the TC 766 amount is simply the spouse's share of the joint overpayment.

Example: Using the above example and omitting the interest computations associated with TC 898, results in a TC 766 amount of \$4,200.

- (3) If you are reversing a TOP Offset that includes computer-generated credit interest and you are going to allow another computer generated refund, you **must** calculate the additional interest owed on the original offset manually. Use CC COMPA to calculate the additional interest (TC 770) owed to the injured spouse. Using the total reversal amount, the **FROM** date will be the posted TC 776 credit interest to date "DB-CR-INT-TO-DT" found on TXMOD. The **TO** date will be the 23C Date (assessment date) of the adjustment releasing the overpayment **minus** 18 calendar days.

Note: The above procedures also apply to issuing a manual refund.

Exception: If CP 21B, Data Processing Adjustment Notice, Overpayment of \$1 or more, is **not** generated or Priority Refund Transcript criteria is **not** met, the back-off period is 18 calendar days. See IRM 20.2.4.7.1.1(2), Systemic Refund Dates for IMF and BMF, for additional information.

When a refund of the TC 766 amount involves an interest payment pertaining to the disaster-related postponement of the filing deadline for 2019 tax returns described in item 2) above, the FROM date for the additional interest (TC 770) calculation will depend on whether the interest payment was offset with TC 898.

If the interest payment was offset with TC 898, then the FROM date is the "DB-CR-INT-TO-DT" of the accrued interest (TC 776) that accompanied the interest payment.

Example: Once again using the example from 2) above, the accrued interest of \$0.66 carries a DB-CR-INT-TO-DT of August 13, 2020 (displayed on TXMOD with the TC 776 posting for the accrued interest). The additional interest owed the injured spouse on the TC 766 amount of \$4,220.99 is therefore computed FROM August 13, 2020.

If the interest payment *was not* offset with TC 898, then the FROM date for the additional interest (TC 770) is the 23C date of the accrued interest (TC 776) that accompanied the interest payment.

Example: Finishing with the example from 2) above, if the interest payment of \$47.49 had not been offset with TC 898, meaning the TC 766 amount is \$4,200, then the FROM date to calculate additional interest for the TC 766 of \$4,200 is the 23C date of the accrued interest of \$0.66 (August 31, 2020).

- (4) Use the IDRS On-Line input Chart found in Document 6209 , Section 16, **Julian Date, Cycle and Notice Calendars** to determine the 23C date of the releasing adjustment. Add two days to the date of Input to allow for the two-day suspense for review. For instance. if your input is on 6/3/XXXX, adding two days will move your Cutoff for Release of Transactions date to 6/10/XXXX.
 - a. One additional week should be added to cases that will be held and released one week later with TC 810/811. The releasing adjustment with TC 810/811 will also need a TC 770 for zero to prevent an unpostable condition.
 - b. Two additional weeks should be added to cases that will require two TC 766's with OTN transactions. This will allow for the posting delays needed between the transactions. Input the TC 770 for zero on the last adjustment.

Caution: Three or more TC 766's will require a manual refund. Manual refunds will be input using the normal manual refund credit interest rules.

Input the TC 770 interest with the last TC 766 reversal. Otherwise, the computer may erroneously double the amount of allowable interest on the new refund.

- (5) If a TOP offset (TC 898) reversal is needed on MFT 35 and credit interest needs to be manually computed (TC 770) :
 - Reverse the TC 898 on the MFT 35
 - Transfer the money back to the MFT 30
 - Compute the interest and release the refund.
- (6) When the injured spouse is entitled to all or part of the joint refund and the Injured Spouse's allocated share of the overpayment is reduced or will be reduced in whole or part by their, TOP debt, Federal tax offset, credit elect, or any prior refund, then send Letter 3179C, Refund Offset to Treasury Offset Program (TOP) and Injured Spouse Inquiries, or Letter 285C, Refund/Overpayment Applied to Account, giving the injured spouse:
 - The amount of the allocation;
 - The reason(s) the overpayment was reduced; and
 - The amount of any refund that will be issued which may be subject to offset for TOP debts they owe.

Note: For TOP offsets, BFS issues the Notification of Offset that provides the creditor agency contact information.

1. If required, tell the taxpayer that further explanation will be sent in two to four weeks, if the injured spouse's portion is applied in some manner that will result in notice issuance, such as a credit transfer.
2. If no other action is required and you are closing the case with a 3179C or 285C, input a TC 290 .00, SC 7, RC 086.

21.4.6.5.10.5

(10-01-2020)

**Injured Spouse
Refund—Tax Offset**

- (1) If an offset has occurred to a separate tax liability for which the injured spouse is not responsible, compare the injured spouse's allocation to the amount of offset. The injured spouse's refund could be equal to or less than the amount that offset to the debt. Transfer the Injured Spouse's portion of the refund back to the joint account. Use a TC 570 on the credit side of the ADC 24 to hold the credit.
- (2) A manual refund is required on all injured spouse refunds of tax offsets to prevent the credit from offsetting back to the same tax debt. On all Forms 8379, issue the Injured Spouse's portion of the refund in **"one name only"** unless the revised Form 8379 (Rev. 11-2016 MeF) and Rev. 11-2016) "Issue in both names" box on line 11 is checked. For prior revisions of Form 8379, always issue the Injured Spouse's portion of the refund in **"one name only"** even if the **one name only** box on line 11 is **not checked**. The manual refund must also have a BPI applicable to the injured spouse to show ownership of the refund for TOP offset eligibility. See IRM 21.4.6.4.2.1, TOP Offset Bypass Indicator (BPI).

Exception: See IRM 21.4.6.5.8.3(15), Processing of Form 8379 Injured Spouse Allocation, for exceptions to manual refunds for tax debts.

- (3) When working an injured spouse form for a tax offset (I) debt, the control base must be changed to something other than DMFC (97140 Paper)/DMFE (97144 Electronic). Change the control base for paper and electronic filed form to category and program code DMFT (40110 Tax Debt).
- (4) When the injured spouse is entitled to all or part of the joint refund and the injured spouse's allocated share of the overpayment is reduced in whole or part by their own, TOP debt, Federal tax offset, credit elect, or any prior refund, then send Letter 3179C, Refund Offset to Treasury Offset Program (TOP) and Injured Spouse Inquiries, or Letter 285C, Refund/Overpayment Applied to Account, giving the injured spouse:
 - The amount of the allocation
 - The reason(s) the overpayment was reduced; and
 - The amount of any refund that will be issued which may be subject to offset to TOP debts they owe.

Note: For TOP offsets, BFS issues the Notification of Offset that provides the creditor agency contact information.

1. If required, tell the taxpayer that further explanation will be sent in two to four weeks, if the injured spouse's portion is applied in some manner that will result in notice issuance, such as a credit transfer.

21.4.6.5.10.6
(03-19-2021)
**Issuing the Injured
Spouse Refund**

2. If no other action is required and you are closing the case with a Letter 3179C or 285C, input a TC 290 .00, SC 7, RC 086.

- (1) On all Forms 8379 (Rev. 11-2016 (MeF) and Rev. 11-2016), issue the Injured Spouse's portion of the refund in "**one name only**" unless line 11 on the form is checked to "Issue in both names". All Form 8379 revisions prior to 11-2014, issue the Injured Spouse's portion of the refund in "**one name only**" even if line 11, one name only box is not checked.

- (2) Injured spouse refunds of TOP offsets generate systemically with the input of TC 766 with the appropriate Offset Trace Number (OTN). Injured spouse refunds of tax offsets must not be allowed to generate systemically. See IRM 21.4.6.5.10.5, Injured Spouse Refund - Tax Offset. A manual refund must be issued for the injured spouse's portion of the overpayment in the following instances:

- a. **A manual refund is required on all injured spouse forms filed against Tax Offsets Debt indicator I or B** whether it is issued in one or both names. This allows for the Bypass Indicator (BPI) to be input and assigns ownership of the refund to the injured spouse for TOP offset purposes.

Exception: See IRM 21.4.6.5.8.3(15), Processing of Form 8379 Injured Spouse Allocation, for exceptions to manual refunds for tax debts.

- b. A manual refund is required when Box 12 on Form 8379, Injured Spouse Allocation, is checked and the address on ENMOD is different than the address on the Form 8379.
- c. A manual refund is required on a current tax year return with CCC "9" (spouse is deceased) and the second name line is not present. See IRM 21.6.6.2.20.2, Processing Decedent Account Refunds.
- d. A manual refund is needed if CCC "L" or "W" is present and **ANY** of the conditions listed in IRM 21.6.6.2.20.2(3) Processing Decedent Account Refunds are not met.
- e. A manual refund is required when three or more TC 898's needs reversing.

Note: *If the account requires the reversal of four or more TC 898's, and the refund will be issued in both names input all the required TOP offset reversals (TC 766) using HC 3 with the appropriate blocking series, SC 7, RC 086 and PC 8. This will allow the reversals to post in one cycle and the overpayment will be systemically refunded in both taxpayer's names.*

- (3) Follow instructions in IRM 21.6.3.4.2.1, Outstanding Balance Considerations Prior to Refund or Credit Elect, when reversing offsets and issuing a manual refund from an account where the taxpayer previously made a credit election.
- (4) Research under both TINs for Outstanding Balance Liabilities (OBLs) for which the injured spouse is liable. Use CC INOLE for cross- reference Taxpayer Identification Number (TIN) OBL checks. Also, check for any OBL that may have occurred with a prior year-spouse.

Note: A manual refund is necessary when the injured spouse's portion of the joint overpayment will offset to a Federal tax debt for which they are not liable.

- (5) For manual refunds of TOP offset reversals, research the tax module where the offset was reversed for an agency refund (TC 899, type 2 or TC 971 AC 599, type 2) and an agency refund reversal (TC 899, type 4 or TC 971 AC 599, type 4) with the same OTN as the offset being reversed. If an agency refund has occurred, see IRM 21.4.6.5.12.1, Input of TOP Offset Reversals Reference Number (RN) 766 with OTN.
- (6) Compute normal interest on manual refunds resulting from offset reversals.

Exception: On manual refunds resulting from a TOP offset reversal, the “FROM” date is based on the refund that was offset.

If	Then
TC 840/TC 846 did not include interest when originally offset	The “FROM” date is determined via normal interest computation procedures. Refer to IRM 20.2, Interest.
TC 840/TC 846 did include interest when originally offset	See IRM 21.4.6.5.10.4, Injured Spouse Refund - TOP Offset.

- (7) When determining the “TO” date, **do not** consider the 45-day interest-free period that applies to claims for credit or refund.
- The injured spouse allocation does not represent a claim for credit or refund subject to the provisions of IRC 6611(e)(2). The Form 8379, Injured Spouse Allocation, is an allocation of the taxpayer’s joint income, payments, deductions, exemptions, and credits used to determine each spouse’s share of the joint overpayment subject to offset for any eligible individual or joint, Federal tax debt or TOP debts.
- (8) If the research shows no Federal Outstanding Balance Liabilities (OBLs) or an agency refund, continue processing the Manual Refund according to normal procedures as outlined in IRM 21.4.4, Manual Refunds Also see IRM 21.4.4.5 Preparation of Manual Refund Forms. .
- All injured spouse allocation refunds must be issued using Blocking Series (BS) 9.
 - Input of the appropriate BPI is required on all refunds. See IRM 21.4.6.4.2.1, TOP Offset Bypass Indicator (BPI).
 - Use line number 1 or 2 as appropriate. See IRM 2.4.20-12, Description of Line Item Numbers. Do not use line number 4.
 - Use HC 1, 2, or 4 when reversing an offset and issuing a manual refund. See IRM 21.4.4.5(3), Preparation of Manual Refund Forms.
 - If the manual refund is issued in a name, address or TIN different from the name, address or TIN on the Master File, and a change is not required on the entity, input the TC 971 AC 037 using the date that the CC RFUNDR is input. This includes manual refunds from joint accounts issued in one name only. For the X-REF, input the TIN of the person whose name is on the refund. When the address on a Form 8379, Injured Spouse Allocation, is different than on CC ENMOD, issue the refund to the address on the Form 8379, and send a Letter 104C, Address Change Acknowledged, asking the taxpayer if the address of record needs to be changed. Send the letter to the address on the Form 8379. Do not change the address on CC ENMOD.

Exception: A TC 971 AC 037 is not required when the refund is being issued to a surviving spouse, an executor, or an appointed administrator of a decedent account. The executor or administrator must have provided a copy of their appointment.

6. Monitor the account per IRM 21.4.4.6.1, Monitoring Manual Refunds until the module balance is zero to avoid erroneous refunds and credit balances. If an erroneous refund occurs, follow erroneous refund procedures in IRM 21.4.5, Erroneous Refunds. If a credit balance remains on the module after the manual refund posts, release the remaining credit balance on the module by inputting a TC 290.00.
 7. All Form 5792, Request for IDRS Generated Refund (IGR), which relate to TOP forms, are batched separately from other IMF and BMF manual refunds. The batching is performed prior to routing to the Manual Refund Function. The remarks section of the Form 5792 must contain the reason for the manual refund.
- (9) When the wrong spouse is identified on Form 8379 and you are issuing a manual refund, you must notate in the remarks section “**INJ SP Incorrect on F8379**”, of Form 5792, Request for IDRS Generated Refund (IGR) or Form 3753, Manual Refund Posting Voucher.

Caution: If this notation is not included in the remarks section, the manual refund will be rejected.

21.4.6.5.11
(05-07-2018)
Hardship Manual Refunds

- (1) Hardship manual refunds do not require Treasury Offset Program research, to determine the existence of a TOP debt, prior to issuing the refund. Refer to IRM 21.4.4.4.2, Outstanding Balances/Duplicate Refunds. Employees of the Taxpayer Advocate Service follow procedures in IRM 13.1, Taxpayer Advocate Case Procedures, unless referred to this section for specific instructions.

Exception: Anyone issuing a hardship refund, which qualifies as an Emergency Refund, or will bypass offset of an internal Federal tax debt, must have their work leader call Bureau of the Fiscal Service to research for a TOP debt prior to making the refund. See paragraph (4) below for emergency refunds or see IRM 21.4.6.5.11.1, Offset Bypass Refunds (OBR), before any action is taken.

Note: Not every refund based on hardship qualifies as an emergency refund. Emergency refunds are those based on hardship where the taxpayer needs the refund in less than 5 days. Refer to IRM 3.17.79.3.3, Issuing Hardship Refunds.

- (2) All manual refunds issued on Form 5792, Request for IDRS Generated Refund (IGR), are subject to offset through TOP unless a specific BPI is assigned either systemically or through manual input. See IRM 21.4.6.4.2.1, TOP Offset Bypass Indicator. The issuance of an IDRS generated manual refund does not automatically bypass offset for TOP debt.

Caution: You must make any necessary changes to the taxpayer’s entity, based on the original return information, before issuing a manual refund from a module without a TC 150. CC ACTON is used to establish the account before the input of CC RFUNDR.

- (3) **When issuing a hardship refund for any reason, you must inform the taxpayer that if they owe a past-due child support or other TOP debt, their refund may be reduced in whole or in part by Bureau of the Fiscal Service and applied to the agency debt through Treasury Offset Program.**

Bureau of the Fiscal Service sends an offset notice to the taxpayer if this occurs. The IRS has no say in this matter. You can tell the taxpayer:

- a. The IRS no longer maintains child support or other TOP debts.
- b. The Bureau of the Fiscal Service maintains these debts and makes offsets through TOP.
- c. They may contact the TOP Call Center at 800-304-3107, TDD 800-877-8339 to determine if a debt is owed and an offset will occur.
- d. Only the agency owed the debt can honor a hardship request to prevent a TOP offset or make a refund of the offset due to hardship circumstances.

Note: Bureau of the Fiscal Service will not provide the taxpayer with the amount of debt submitted to TOP by the creditor agency. Any amount of a debt provided to you by Bureau of the Fiscal Service or an Agency **must not** be given to the taxpayer. Refer the taxpayer to the creditor agency to obtain the debt amount.

- (4) Emergency hardship refunds require coordination with Bureau of the Fiscal Service to ensure that a TOP debt is not bypassed. This is needed on Form 5792, Request for IDRS Generated Refund (IGR), and Form 3753, Manual Refund Posting Voucher. Non-IDRS manual refunds issued on Form 3753 are now subject to TOP offset.

Caution: If an offset occurs after Form 3753 has been issued, a TC 898 will not post to the account. A systemic offset reversal cannot be done. This will

a manual reversal. Please allow up to 180 days for the manual reversal to post.

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Due to systemic limitations only BPI 0 or 3 can be used.

1. Your Lead Tax Examiner or an employee of the Taxpayer Advocate Service must contact Bureau of the Fiscal Service at 800-304-3107, Monday through Friday from 7:30 AM to 5:00 PM CST, to determine if a TOP liability exists for the primary TIN and secondary TIN if it is a joint return.
2. After getting through to Bureau of the Fiscal Service, select the option "If you are calling from a government agency."
3. Inform the Bureau of the Fiscal Service CSR that you are an IRS employee processing a hardship manual refund and give your name, ID number, and the office you are calling from.
4. Provide the name and TIN of the taxpayer(s) and request confirmation of the existence of a debt, the amount(s) owed, and to which agency. Notate this information on your case history along with the name of the Bureau of the Fiscal Service CSR who provided it.
5. Prepare Form 3753 for amount of overpayment more than the TOP liability.
6. If the return has not been processed, "O" code the return for processing to prevent an erroneous refund.
7. Monitor the account for the posting of the TC 840 and TC 150.

8. The remainder of the overpayment refunds systemically when the “O” code return posts. Bureau of the Fiscal Service initiates the offset at that time.

Note: If your unit or office processes several of these refunds daily, the work leader will contact Bureau of the Fiscal Service to research each of the cases at the same time, thereby reducing the time spent encountering busy signals or waiting for the next available CSR.

- (5) A hardship request to expedite the injured spouse’s portion of an overpayment, resulting from Form 8379, Injured Spouse Allocation, filed with an unprocessed original return, may be honored prior to the return posting and a TOP offset.
 1. Review the Form 8379, Injured Spouse Allocation for completeness. See IRM 21.4.6.5.8.4, Review the Form 8379 for Completeness, and allocate the form per IRM 21.4.6.5.10.1, Allocation of Tax, and IRM 21.4.6.5.10.2, Allocation of EITC.
 2. Update the entity, if necessary, and use CC ACTON to establish a “dummy account”.
 3. Issue a manual refund on Form 5792, Request for IDRS Generated Refund (IGR), for the injured spouse’s portion of the refund. Use block series 9 and the appropriate BPI. See IRM 21.4.6.4.2.1, TOP Offset Bypass Indicator (BPI), for more information.
 4. Inform the injured spouse that the refund can be offset for any past-due child support or other TOP debts that they may owe.
 5. “O” code the return for processing to prevent an erroneous refund.
 6. Monitor the account for the posting of the TC 840 and TC 150.
 7. The remainder of the overpayment refunds systemically when the “O” code return posts. Bureau of the Fiscal Service initiates the offset at that time.

21.4.6.5.11.1
(09-06-2022)
Offset Bypass Refund (OBR)

- (1) Under certain hardship circumstances, the IRS may issue manual refunds of excess credits without first satisfying the IRS Outstanding Balance Liability (OBL). This type of refund is called an **Offset Bypass Refund (OBR)**. Hardship for purposes of an OBR is economic hardship within the meaning of IRC 6343, and the corresponding Treasury regulations (i.e., unable to pay basic living expenses). Handle each OBR on a case by-case basis. There is no exclusive list of expenses which would qualify a taxpayer for an OBR.
- (2) Initiators of an Offset Bypass Refund (OBR) must input a TC 971 Action Code 036 prior to the manual refund (TC 840) to identify that the offset liability was bypassed.

Caution: The IRS has no discretion to determine whether an offset to a past-due child support or other Federal agency non-tax debt under the Treasury Offset Program should occur. If a TOP debt exists, the IRS has no authority to issue an OBR. A manual refund due to hardship with BPI 3 **must not** be used to bypass a TOP offset. This includes refunds resulting from disaster claims or levy proceeds. See IRM 21.4.6.5.7.1, Allowable TOP Offset Reversals. See IRM 21.4.6.5.11.1(11) below for conditions that will allow an OBR.

- (3) OBR requests should generally not be referred to the Taxpayer Advocate Service. A request for an OBR must be worked immediately upon receipt.

- (4) Send the OBR to TAS if the taxpayer requests TAS assistance or if the request meets TAS criteria 1-4 and you cannot resolve the request (or steps taken to resolve) within 24 hours. See IRM 13.1.7.2.1, TAS Case Criteria 1-4 Economic Burden.
- (5) Send to TAS when an OBR phone request is received on the Customer Service line if the 23C date has not passed **OR** a clerical error occurred that prevented processing the taxpayer's OBR request before the 23C date.
- (6) Once the tax is assessed (23C date), the overpayment is created and the offset occurs. There is no longer any overpayment to refund and the OBR cannot be initiated; however, if a freeze code or other condition exists on the account, preventing the overpayment from offsetting to the outstanding liability, an OBR can be initiated because the overpayment is still available on the module. See paragraphs (9) and (10) below for additional details. The presence of a -Y freeze on one or more of the balance due accounts (unreversed TC 480 pending offer in compromise with no TC 780 in collection status 71) does not preclude an OBR even if some of the overpayment would otherwise be applied to this module. See SBSE-05-1021-0063, Interim Guidance on Refund Recoupments.

Note: For overpayments becoming available prior to offer acceptance date (TC 780), in which the offset has not taken place, a taxpayer under certain hardship conditions may seek an Offset Bypass Refund.

- (7) If the current date is more than 30 days past the 23C date and review of the case indicates a clerical error did not occur, the employee should inform the customer that the overpayment has been applied to the balance due account and the IRS cannot undo it. This will resolve the OBR inquiry on the same day and therefore should not be transferred to TAS.

Note: See IRM 21.4.6.5.11.1(10) below for an exception when the IRS can issue the OBR after the 23C date.

- (8) If a clerical error did not occur, an OBR must generally be issued before the tax assessment date or 23C date for the original return (TC 150) on which the overpayment was reported. The manual refund document must be received by Accounting no later than the Friday cut-off-time before the Assessment Document Date (23C Date, always a Monday) of the original return. See paragraphs (9) and (10) below for situations when the OBR can be issued after the 23C date.
- (9) Specific account conditions, such as freeze codes, will determine the date by which the OBR must be processed. Timing must be considered when processing an OBR and releasing an IDRS freeze condition. If there is a balance due module; a freeze release will prompt an offset to that account. The OBR must be approved and processed prior to the freeze release, there are certain conditions in which a TC 840 will release the freeze code or condition. Refer to Document 6209 Section 8A, Master File Codes.
- (10) Certain IDRS freeze conditions will hold the overpayment beyond the return posting date (Assessment Document Date or the 23C Date) of the original return (TC 150). Any actions on the overpayment, either refund or offset, are prevented by the IDRS hold until the resolution of the IDRS Freeze condition. Determine whether the IDRS freeze condition can be released based on the

applicable IRM provisions. This may include coordination with another IRS function. When the resolution of the IDRS freeze condition results in an overpayment, the overpayment can be issued in a manual refund after the 23C date, so long as:

1. The function receives the OBR request before the posting date of the freeze release,
2. The approving official approves the OBR before the posting date of the freeze release, and
3. Accounting receives and processes the approved OBR request before the posting date of the freeze release.
4. If the freeze release occurs without a releasing transaction (e.g., due to the passage of time from the imposition of the freeze), treat the posting date of offset credit transfers as the posting date of the freeze release.

Note: To prevent an erroneous refund on an OBR, allow posting of the manual refund to release a freeze instead of manually inputting an action on IDRS to release the freeze. Use hold codes 1, 2 or 4 when creating an overpayment on an IDRS adjustment that changes the tax, credits, or payments to hold an overpayment from offsetting. Use a secondary transaction code on the credit side of CC ADD24 or CC ADD34 (e.g. TC 570) to hold the overpayment when it is necessary to input a credit transfer on IDRS.

Caution: If the Integrity & Verification Operations (IVO) closes a case using the Electronic Fraud Detection System (EFDS), the freeze condition is released.

- (11) If an OBR is requested before the 23C date of the tax assessment which created the overpayment; but a clerical error occurred preventing the processing of the request, the IRS can correct the clerical error by reversing the tax offset and issuing the OBR.
- (12) OBRs may also be made if subsequent adjustments are made to a tax module. These may include: a payment or credit transfer, an audit tax adjustment, a math error correction, and an amended return or claim that is filed and processed. Therefore, the subsequent overpayment can be issued in a manual refund for those taxpayers eligible for an OBR.

Note: To prevent an erroneous refund on an OBR, use hold codes or secondary transaction codes to hold the overpayment. It may be necessary to coordinate the release of freeze conditions and subsequent adjustments with another IRS function.

- (13) An OBR may not be issued if a Treasury Offset Program offset will occur.
 1. Your Lead Tax Examiner must contact Bureau of the Fiscal Service at 800-304-3107, TTD 866-297-0517 Monday through Friday from 7:30 AM to 5:00 PM CST, to determine if a TOP liability exists for the primary TIN or the secondary TIN, if it is a joint return.
 2. After contacting Bureau of the Fiscal Service, select the option "If you are calling from a federal or state government agency please press 3 then press 6 for IRS employee processing a Form 8379."
 3. Inform the Bureau of the Fiscal Service CSR that you are the IRS employee processing a hardship manual refund and give your name, ID number, and the office from which you are calling.

4. Provide the name and TIN of the taxpayer(s) and request confirmation of the existence of a debt, and the amount(s) owed, notate the information on your case history along with the name of the Bureau of the Fiscal Service CSR who provided it.
5. A Federal tax debt must not be bypassed if a TOP liability exists and a TOP offset will occur. Refer to IRM 3.17.79, Accounting Refund Transactions, for additional information.

Exception: If the amount of the taxpayer's overpayment exceeds the total of the Federal tax liability and the TOP debt, a manual refund may be issued with a BPI (3) for the amount by which the refund exceeds both debts. The portion not refunded will offset first to the Federal tax debt then to the non-tax debt. If a manual refund is not issued, the amount of the overpayment in excess of the debts will refund via TC 846.

- (14) When the taxpayer provides the dollar amount and documentation of their hardship the OBR is issued for that amount. Do not exceed the amount of the hardship request.

Example: The taxpayer has an overpayment on their return showing \$1,000. They have requested a hardship refund of \$600 to avoid eviction. A review of their account shows a prior year tax liability of \$500. If you decide to honor the hardship request for \$600, you must treat \$100 of the refund as an OBR. The remaining \$400 overpayment offsets to the Federal tax debt.

- (15) Evidence of the credit condition and documentation must be provided when an OBR manual refund is submitted to the Accounting Branch. Evidence may be either a copy of the unfiled tax return (including all forms and W-2s) or an IDRS print showing the amount of the overpayment available for refund.
- (16) Complete Form 5792, Request for IDRS Generated Refund (IGR), or Form 3753, Manual Refund Posting Voucher, as required and process as follows:
 - a. Write in the remarks section, "OBR" and the specific reason for issuing the manual refund along with IRM references which apply, notate the Bureau of the Fiscal Service contact name, the date of contact and no TOP debt. Refer to IRM 21.4.4.5, Preparation of Manual Refund Form.
 - b. Update IDRS with the activity code "TC840/OBR."
 - c. Attach a copy of the evidence provided by the taxpayer substantiating the overpayment.
 - d. Attach TXMOD print showing the amount of liability(s) bypassed.
 - e. Update the entity, if necessary, and use CC ACTON to establish a "dummy account" for IDRS generated refunds.
 - f. Input a TC 971, AC 036, via CC REQ77, on the credit module to identify that an offset liability was bypassed prior to the TC 840 manual refund.
 - g. Input the Form 5792, Request for IDRS Generated Refund (IGR), manual refund on CC RFUNDR with BPI 0.

Note: The BPI 3 should be used on Form 5792 and Form 3753, when the taxpayer has both tax and TOP debts to be paid before a refund is issued. The **OBR Significant Hardship** refund should be the excess of the overpayment after all debts are paid. **OBR Significant Hardship** should be notated in the remarks section. See IRM 21.4.6.4.2.1, Top Offset Bypass Indicator (BPI).

- h. Have the manual refund document signed by the authorized approving official.
 - i. Hand carry the case with the refund request to the Taxpayer Advocate Coordinator Liaison with TAS (TAC) for immediate review.
 - j. Monitor the case to stop any computer-generated refund not anticipated, or reverse pending offsets to the tax liability bypassed.
- (17) If the TAC or designee agrees with the OBR, they must initial in the remarks section of the manual refund form and forward the OBR to the Accounting Function.
 - (18) If the TAC or designee disagrees with the OBR, the case must be turned over to the Taxpayer Advocate Service for resolution.
 - (19) If the OBR is rejected, the OBR initiator must input on CC REQ77, TC 972, AC 036, to reverse TC 971, Input a history item on IDRS, "REJECT/OBR."
 - (20) In limited circumstances involving a clerical error by the IRS or TAS that prevented processing of the OBR request, the IRS may reverse an offset that has already occurred and issue the taxpayer a refund. A clerical error includes bookkeeping, ministerial, inadvertent, or accidental errors, or even mistakes of fact.

21.4.6.5.12
(01-06-2016)

**TOP Offset Reversals
with Adjustments**

- (1) When inputting a TC 766, you can only input an adjustment to withholding or EITC.
- (2) Other adjustments resulting in a net **debit** to the tax module must be input **before** the TC 766 offset reversal.
 - 1. Input the net debit adjustment (TC 29X) with the appropriate blocking series (block 00 with original return or 05 without original), source code (SC), reason code (RC) and use hold code (HC) 3.
 - 2. Input the TOP offset reversal (TC 766) with the appropriate blocking series, SC 7, the appropriate RC, HC 3 and a Posting Delay Code (PDC) of 1. See IRM 21.4.6.5.14, TOP Source and Reason Codes.
 - 3. Use HC 4 for TOP offset reversals that will result in a credit balance on the tax module.
 - a. For Form 8379, Injured Spouse Allocation, input RN 808/RN 810 or RN 809/RN 811 with a PDC for 2 cycles or issue a manual refund if applicable.
 - b. For all other programs, resolve the credit as appropriate for your case (e.g. ID Theft, Merge cases, Scramble cases etc.)
 - 4. Advise the taxpayer of the adjustment action taken.
- (3) An adjustment resulting in a net **credit** to the tax module must be input **after** the offset reversal.
 - 1. Input the TOP offset reversal (TC 766) using HC 1 or HC 4 with the appropriate blocking series, SC 7 and the appropriate RC. See IRM 21.4.6.5.14, TOP Source and Reason Codes.
 - 2. Input the net credit adjustment (TC 29X) using HC 1 or HC 4 and the appropriate blocking series, SC, RC, and PDC for 1 cycle.

- a. For Form 8379, Injured Spouse Allocation, input RN 808/RN 810 or RN 809/RN 811 with a PDC for 2 cycles or issue a manual refund if applicable. Compare the injured spouse's refund allocation with the TC 898 on TXMOD and reverse only the portion needed. If all the offset is needed, reverse the entire amount.

Reminder: If the account requires the reversal of three or more TC 898's, you must issue a manual. See IRM 21.4.6.5.10.6 (2) e), Issuing the Injured Spouse Refund.

Note: Be sure to consider the credit resulting from the adjustment when computing the injured spouse's portion of the total overpayment.

- b. For all other programs, resolve the credit as appropriate for your case (e.g. ID Theft, Merge cases, Scramble cases etc.).
3. Advise the taxpayer of the adjustment action taken.
- (4) If you are working a statute year injured spouse allocation, use the received date of the original return as the RFSCDT to prevent the credit from being held with a -D freeze.

Reminder: If the taxpayer filed their return on or before an approved extension of time to file, use the 04/15/XXXX of the return rather than the posted Return Received Date shown on TXMOD.

- (5) For all other programs, follow Statute guidelines for your case.

21.4.6.5.12.1
(10-06-2020)
**Input of TOP Offset
Reversals Reference
Number (RN) 766 with
OTN**

- (1) Use TC 290 and TC 766 with an Offset Trace Number (OTN) to reverse a Treasury Offset Program offset (TC 898) with the same OTN. The OTN field is 10 characters that includes a hyphen (-), e.g. 12345-67890. CC ADJ54 has a field for input of the OTN in position 64–74 of line 6. You must always input the OTN when reversing a TOP offset with a RN 766. Before reversing any offset to Office of Child Support Enforcement (Agency Codes 1 and/or 2), see IRM 21.4.6.4.2.4, **Child Support TOP Offsets**.

Exception: If there is a TC 971 AC 598 (manual input of Top offset record) on the account, you cannot input a TC 766 with an OTN to reverse the TOP offset. See IRM 21.4.6.5.12.2, Manual Reversal of TOP Offset.

- (2) Input the offset reversal using CC REQ54, blocking series (BS) 00 with original return or BS 05 without original, source code (SC) 7, and the appropriate reason code. See IRM 21.5.1.5.3(3), CII Source Documentation and IRM 21.4.6.5.14, TOP Source and Reason Codes. Use Hold Code (HC) 1 or 4 unless specifically instructed to use another HC. Use HC 2 for Injured Spouse cases.

Exception: Injured Spouse TOP offset reversals may be input with a HC 3 if the refund will be issued in both names.

- (3) The TC 766 amount may not exceed the net TOP offset amount. A TC 766 input for more than the net amount results in an UPC 189. See IRM 21.4.6.4.2.11, Netting TOP Offsets and Reversals.

- (4) The OTN input with TC 766 must match an OTN of a prior posted TC 898. Multiple TC 898 offsets from the same refund must be reversed separately. The order in which they are input does not matter.

Note: *If the account requires the reversal of four or more TC 898's, and will be issued in both names input all the required TOP offset reversals (TC 766) using HC 3 with the appropriate blocking series, SC 7, RC 086 and PC 8. This will allow the reversals to post in one cycle and the overpayment will be systemically refunded in both taxpayer's names.*

- (5) For Form 8379, compare the injured spouse's refund allocation with the TC 898 on the module and reverse only the portion needed. If all the offset is needed, reverse the entire amount.

Reminder: When a TOP offset occurs for both the primary and secondary TINs on an account, the two TC 898(s) may have OTN(s) that differ by only one digit. You must be sure you input the OTN of the specific TC 898 offset you are reversing, especially when you are reversing only one of the offsets due to an injured spouse allocation.

Note: The TC 766 cannot be within \$10.00 of any TC 766 amount listed on the account without using a Priority Code (PC) 8. Failure to input the PC 8 will result in an UPC 159. IRM 3.12.179.54 (3), UPC 159 RC 0-1, Estimated Penalty/Duplicate Assessments/Abatements.

21.4.6.5.12.2
(05-07-2018)

Manual Reversal of TOP Offset

- (1) A manual reversal is required when you have an IMF/BMF offset which was sent to Bureau of the Fiscal Service in error and cannot be reversed with a TC 766 (IRS reversal) or TC 899 (Bureau of the Fiscal Service reversal). Before reversing any offset to Office of Child Support Enforcement (Agency Codes 1 and/or 2), see IRM 21.4.6.4.2.4, **Child Support TOP Offset**.

- (2) Examples of offsets which can never be reversed using a TC 766 are:

- a. MFT 55
- b. All BMF MFTs
- c. MFT 29
- d. Form 3753
- e. Offsets over 6 years
- f. Deleted TC 898

Note: A TC 971 AC 598 (manual input of TOP offset record) is input on an account for audit trail purposes for an erroneously deleted TC 898. **A manual reversal is required.**

- (3) On occasion, you may have a TC 898 transaction that was deleted in error and a systemic reversal (TC 766) cannot be done. Take the following actions:
- a. Research IDRS, if a deleted unpostable (DU) 898 or a TC 971 AC 598 is paperwork to begin the manual reversal process.
 - b. The TOP Liaison will confirm the manual reversal process is warranted and provide the Manual Reversal Request to be completed.
 - c. Prepare Manual Reversal Request supplied by the TOP Liaison.

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address is provided by the Liaison.

- e. Update the activity in the control base on IDRS to PENDMRR and monitor the account for the TC 700 which may take up to 180 days to post to the account.

Caution: Take no further action until the manual reversal request has completed. If a TC 898 appears on the account after the manual reversal request (MRR) has been submitted. **DO NOT** take any action or input a TC 766 (TOP offset reversal). The manual reversal request **cannot** be cancelled once initiated.

- f. The TOP Liaison will open an IDRS control base, put MRRTONHQ in the activity section when the action has been initiated to the AM Process & Program Management Analyst. If 14 days have passed and you do not see an open control base with MRRTONHQ, follow-up with the TOP Liaison.
 - g. The TOP Liaison will manually input the TC 971 AC 598 with OTN if the information is available for audit trail purposes.
 - h. When the TC 700 posts to the account, follow normal processing procedures.
 - i. If a manual refund is requested (e.g., TAS hardship cases) before the TC 700 posts, contact the AM Process & Program Management Analyst to secure permission to expedite the manual refund.
 - j. When permission is granted for the manual refund before the TC 700 posts to the account, input TC 470 CC 90 to prevent notices from being issued.
- (4) The TOP Liaison will prepare the Form 3809, Miscellaneous Adjustment Voucher, and include it with the substantiating documents to AM Process & Program Management Analyst for inclusion in the manual reversal request package. The TOP Liaison will refer to IRM 3.17.63.9.27.4, Treasury Offset Program (TOP)/Debtor Master File (DMF) Manual Offset Reversal Transactions.
 - (5) On occasion, you will have a UPC condition or Agency Refund Record TC 899 Type Code 2 which was submitted in error and cannot be reversed or corrected.
 1. Research the account to determine if a manual reversal is needed and the offset cannot be reversed via a TC 766. This is done on a case-by-case basis and each case may vary.
 2. After you have determined a manual reversal is needed, see IRM 21.4.6.5.12.2(3), Manual Reversal of TOP Offset.

21.4.6.5.12.3
(02-01-2016)
TC 766 Reject Listing

- (1) A TC 766 reject occurs when the IRS requests a specific TOP offset reversal and the Federal agency has already refunded the offset or Bureau of the Fiscal Service has initiated a reversal of the offset because it was undeliverable or a debt was canceled.
- (2) A TC 766 Reject Listing is created weekly. Upon the receipt of the listing, the IRS Headquarters analyst must review and reconcile the listing with other TOP reports for accuracy prior to sending the listing for resolution.
- (3) The TC 766 Reject Listing must be worked upon receipt to avoid erroneous refund conditions and correct the taxpayer's account.

Note: Only the TOP Liaison is authorized to work the TC 766 Reject Listing.

- (4) The account must be reviewed to identify the condition that caused the TC 766 to be rejected, see IRM 21.4.6.4.2.10, TC 899 Reversal or Agency Refund of TOP Offset. In general, a TC 899, type 1, 2, 3 or 4 will be pending or posted to the account. If the TC 899 is unpostable, research the condition that caused the unpostable and make the necessary corrections to correct the taxpayer's account. If a TC 899 is not reflected on the account, contact Bureau of the Fiscal Service to verify the transactions that transpired before any adjustment is made.

Note: A TC 899 type 1,2, 3 or 4 may have been deleted in error. You may see a TC 971 AC 599 on the account representing a manual input of the TC 899 erroneously deleted. You must take all transactions; posted or unposted, into consideration.

- (5) For each TC 766 rejection, Bureau of the Fiscal Service provides a reason for the reject and is displayed on the report as a **"result code"**.
- (6) The most common result codes, with an explanation, are listed below:

If	Then
<p>(01) Invalid Offset Trace Number (OTN) — The requested TC 766 carried an OTN that does not match at Bureau of the Fiscal Service for the same taxpayer. Your TC 898 OTN may or may not match the posted 766 OTN</p>	<ol style="list-style-type: none"> 1. If OTN does not match, input a TC 767 with the invalid OTN, and a TC 766 with the correct OTN. <p>Caution: Due to file errors, some TC 898s posted with “invalid” OTNs and there may be an open unpostable for the “valid” TC 898. Research UPTIN and resolve the UPC TC 898.</p> <ol style="list-style-type: none"> 2. If the OTN does match, input a TC 767 with the OTN and a new TC 766 with the same OTN. Input a Posting Delay Code for 1 cycle. <p>Note: If a TC 898 posted with an invalid OTN and a TC 766 was input to reverse the invalid OTN. The following actions are necessary to resolve the account when this situation is present:</p> <ol style="list-style-type: none"> 1. Input the TC 767 with the invalid OTN. 2. Leave message on UPTIN to post the “valid” TC 898 in 2 cycles to allow the TC 767 with the invalid OTN to post first. 3. Once the “valid” TC 898 has posted input TC 766 with the correct OTN for the rejected amount, use HC 4, SC 087, PC 8, PD 3. 4. Monitor the account until all account adjustments have posted and the account is in zero balance. <p>Exception: There are instances when the valid TC 898 is deleted in error and a TOP offset reversal cannot be input. When this condition has been identified, a Manual Reversal Request (MRR) is needed to resolve the account. Take the following action:</p> <ol style="list-style-type: none"> 1. Input TC 767 with invalid OTN, use HC4, SC 087 and PC 8. 2. Input TC 470 CC 90. 1. Prepare MRR for dishonored amount and submit to NHQ. See IRM 21.4.6.5.12.2, Manual Reversal of TOP Offset. <p>Reminder: Only the TOP Liaison is authorized to input a TC 767 with an OTN.</p>

If	Then
<p>(03) Invalid Reversal Amount — Amount is not equal to the TOP offset amount.</p> <ol style="list-style-type: none"> 1. The posted TC 766 amount is greater than TC 898 amount or the amount is not available to input the TOP offset reversal due to a returned or cancelled refund (TC 740/TC 841). 2. Amount not equal to the TOP offset amount due to a manual reversal request processed by Bureau of the Fiscal Service. 	<ol style="list-style-type: none"> 1. Input a TC 767 for the disallowed amount with the OTN. <p>Reminder: Only the TOP Liaison is authorized to input a TC 767 with the OTN.</p> <ol style="list-style-type: none"> 2. Input a TC 767 for the disallowed amount with the OTN. <ol style="list-style-type: none"> 1. Input TC 470 CC 90 and/or CC STAUP as necessary. 2. Monitor the account until the completion of the Manual Reversal Request (the posting of the TC 700 credit).
<p>(06) Missing Field — There is a Field missing from the adjustment</p>	<p>Input a TC 767 with the OTN for the full amount of the TC 766 and re-input the TC 766 with the correct information. Input a Posting Delay Code for 1 cycle.</p> <p>Reminder: Only the TOP Liaison is authorized to input a TC 767 with the OTN.</p>
<p>(09) Valid Request — Bureau of the Fiscal Service considers the TC 766 request as valid but for a lesser amount</p>	<p>Input a TC 767 with the OTN for the disallowed amount. No TC 766 is needed.</p> <p>Reminder: Only the TOP Liaison is authorized to input a TC 767 with the OTN.</p>

Note: If there are any result codes not listed in the table above, please contact the IRS Headquarters Analyst.

(7) Once the condition creating the TC 766 reject is identified, use the IF/THEN chart above to resolve the TC 766 Reject.

1. Be sure to Indicate "TC 766REJ" on the adjustment.
2. Take any action necessary to resolve an erroneous refund condition. Refer to IRM 21.4.5, Erroneous Refunds.

Caution: **NEVER** input TC 767 with the OTN for any reason other than to correct a reject on the TC 766 reject listing.

Reminder: Only the TOP Liaison is authorized to input a TC 767 with the OTN.

(8) Upon each cycle's completion, the TOP Liaison will send an e-mail to the IRS Headquarters Analyst acknowledging that the listing has been processed. Before reversing any offset to Office of Child Support Enforcement (Agency Codes 1 and/or 2), see IRM 21.4.6.4.2.4, **Child Support TOP Offsets**.

21.4.6.5.13
(02-13-2015)

**Input of Tax Offset
Reversals, TC 821/TC
822**

- (1) Reverse tax offsets in the opposite order in which they occurred. The last offset out should be reversed first.
- (2) Reverse any credit interest that was transferred with the offset. If you do not reverse the full amount of the offset, you must compute the amount of credit interest allowed on the portion you are reversing.
- (3) Follow the procedures below to reverse a tax offset when a clear determination is made that a portion of the injured spouse's refund has been applied to a tax liability for which they are not responsible.
 1. Input the appropriate credit transfer using CC ADD24/CC ADC24 to reverse the portion of the offset applicable to the injured spouse's share of the refund.
 2. Use a TC 570 on the credit portion of the transfer.
 3. Transfer credit to a liability of injured spouse and/or issue a manual refund to prevent the credit from offsetting back to the same debt.
 4. When issuing a manual refund, use the applicable BPI to assign ownership of the refund to the injured spouse. See IRM 21.4.6.4.2.1, Top Offset Bypass Indicators.

Note: The manual refund is issued in the injured spouse's name only, unless the injured spouse requested in writing or on Form 8379, Injured Spouse Allocation, that it be issued in both names.

21.4.6.5.14
(05-09-2014)

**TOP Source and Reason
Codes**

- (1) Source Code (SC) 7 must be input with Reason Code (RC) 086, RC 087, RC 089, RC 090 or RC 091. SC 7 results in the following statement on the notice:

"All or a portion of your Federal Income Tax Refund offset which was previously applied to an outstanding child support or federal agency debt is now being reversed because"
- (2) RC 086, RC 087, RC 089, RC 090, and RC 091 complete the statement by indicating specific TOP adjustments. See RC statements below:
 - RC 086 - "an injured spouse claim was filed requesting a refund of the non-obligated spouse's share of the amount applied against the non-tax debt."
 - RC 087 - "we have corrected a math or processing error on your return."
 - RC 089 - "the offset was done in violation of the automatic stay of bankruptcy."
 - RC 090 - "the offset resulted from a payment which was specifically intended for application to the IRS outstanding balance."
 - RC 091 - "based on the superseding tax return you filed, we have adjusted the tax, withholding, or credits reported on your original tax return."

Caution: TOP source and reason codes may not be used in combination with any other IMF source and reason codes.

21.4.6.5.15
(10-01-2021)
**Bankruptcy Cases
Involving Tax Offset**

- (1) For taxpayer inquiries regarding bankruptcy and a tax offset, immediately call making any account adjustments so the potential stay violation may be resolved within 48 hours.

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- (2) Insolvency will determine if the tax offset is in violation of the automatic stay.
- (3) If the tax offset was in violation of the automatic stay, follow Insolvency's instruction to reverse the tax offset and issue a manual refund with BPI 7.

Note: Only use BPI 3 if instructed to do so by Insolvency.

See IRM 21.4.4.5.1, Preparation of Form 5792, IDRS Generated Refund, for what is required on the Form 5792, Request for IDRS Generated Refund (IGR).

Note: When working Form 8379, Injured Spouse Allocation, **ALWAYS** reverse the Injured Spouse's share of the refund, if the Injured Spouse is not responsible for any part of the debt which offset. Contact Insolvency at the Centralized

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for faxing instructions) to determine if the Injured Spouse's refund can be issued. If approval to issue the refund is received, input a Manual Refund using BPI 8 or 9.

IMPORTANT: DO NOT give out the TOP Liaison or Insolvency phone number above.

- (4) If Insolvency states not to issue the refund, send Letter 3179C, "Refund Offset to Treasury Offset Program (TOP) and Injured Spouse Inquiries", informing the injured spouse the result of the allocation and advise the injured spouse to contact Insolvency.
- If Insolvency provides a specific name and number for the injured spouse to contact, include that information in Letter 3179C.
 - If Insolvency does not provide a specific name and number for the injured spouse to contact include the Philadelphia CIO telephone number 800-973-0424 in the Letter 3179C.
 - Notate on CII that Insolvency did not give approval for a refund and that the injured spouse has been instructed to contact Insolvency.
 - Do not release any freezes.** Close the case.

21.4.6.5.15.1
(10-01-2023)
**Bankruptcy Cases
Involving TOP Offset**

- (1) Cases involving bankruptcy and TOP offsets require that the agency receiving the offset make the refund unless:
- It can be determined that the IRS was aware of the bankruptcy prior to issuing the refund that was offset.
 - We, at the , failed to put a BPI 3 on the refund to bypass offset.

Note: A TC 520, with closing code 60-67, 81, or 83-89 on the account with a transaction date prior to 10/17/2005, generates a BPI 3 on refunds that are issued systemically. Manual refunds issued from accounts with a -V or -W Freeze require input of BPI 3.

- (2) Research the account for agency refunds (TC 899 or TC 971 AC 599 Type 2) or prior reversals (TC 766 with an Offset Trace Number (OTN)). Before reversing any offset to Office of Child Support Enforcement (Agency Codes 1 and/or 2), see IRM 21.4.6.4.2.4, **Child support TOP Offsets**.

- (3) If research shows that the TOP offset is available for reversal, immediately call

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making any account adjustments so the potential stay violation may be resolved within 48 hours. Once Insolvency determines the offset is in violation

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for a copy of the Insolvency Special Procedures Referral Form. Insolvency will

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The TOP Liaison will either approve or disapprove the request for a TOP offset reversal depending on information acquired during research.

Cases approved for TOP offset reversal may be referred to Accounts Management (AM) by Insolvency. Insolvency will detail the action necessary on Form 4442 or Form e4442 and submit it to the appropriate AM function.

Reminder: When working Form 8379, Injured Spouse Allocation, **ALWAYS** reverse the Injured Spouse's share of the refund, if the Injured Spouse is not responsible for any part of the debt which offset and the Form 8379 was timely. Contact Insolvency at the Centralized Insolvency Operation

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issued. If approval to issue the refund is received, input a Manual Refund using BPI 8 or 9. See IRM 21.4.6.5.8.3 reminder for what is required on the Form 5792, Request for IDRS Generated Refund (IG-R)**IMPORTANT: DO NOT** give out the TOP Liaison or Insolvency phone number above.

- (4) If Insolvency states not to issue the refund, send Letter 3179C, "Refund Offset to Treasury Offset Program (TOP) and Injured Spouse Inquiries", informing the injured spouse the result of the allocation and advise the injured spouse to contact Insolvency.

- If Insolvency provides a specific name and number for the injured spouse to contact, include that information in Letter 3179C.
- If Insolvency does not provide a specific name and number for the injured spouse to contact, include the Philadelphia CIO telephone number 800-973-0424 in the Letter 3179C.
- Notate on CII that Insolvency did not give approval for a refund and that the injured spouse has been instructed to contact Insolvency.
- Do not release any freezes.** Close the case.

21.4.6.5.16
(02-01-2016)
Combat Zone Cases

- (1) Declaration of any area, as a combat zone or Qualified Hazardous Duty Area (QHDA), affects certain military personnel who are listed as debtors and are participating in combat zone initiatives. Combat Zone (CZ) accounts, identified by a -C freeze, indicate a taxpayer who is or was serving in a designated combat zone area.

Note: -C freeze stays on the account even after the taxpayer is no longer in the CZ. When working an account that contains a -C freeze, additional research is required to determine the taxpayer's CZ status. Research CC IMFOLE for the Combat indicator on Line 11.

If Combat indicator is "1", then the taxpayer is still serving in a combat zone. Any compliance activity such as assessing or collecting tax is prohibited. However, if the taxpayer has other issues or requests information, you may work these other issues and contact the taxpayer if needed. If Combat indicator is "2", then the taxpayer is no longer a combat zone participant. Follow normal IRM procedures to work the case. See IRM 5.19.10.6.3, Combat Zone Freeze Code, for additional information.

Note: Form 8379, Injured Spouse Allocation can be worked whether the Combat indicator is "1" or "2".

- (2) For such military personnel, Federal income tax refunds will not be offset to any Federal tax debt or TOP debt. Offsets **will only** occur on child support obligations.
- (3) Combat Zone (-C Freeze) account have a BPI 4 set when a computer-generated refund is issued. BPI 4 allows for the TOP offset to any child support debts.
- (4) Offsets that were inadvertently applied to TOP debts other than child support should be reversed and refunded to the affected taxpayers. This action is initiated when the taxpayer contacts .
- (5) BPI 5 and BPI 6 must be input on injured spouse manual refunds when a —C freeze is present. BPI 5 and BPI 6 will generate on systemic refunds issued from modules with a combat zone —C Freeze in effect.

Note: Before reversing any offset to Office of Child Support Enforcement (Agency Codes 1 and/or 2), see IRM 21.4.6.4.2.4, Child Support TOP Offsets.

21.4.6.5.17
(02-01-2016)
**Mixed Entity Cases with
TOP Offsets**

- (1) A mixed entity case is a case involving the filing of a tax return by an individual who is using a TIN belonging to another individual. Typically, a mixed entity case involves the filing of returns by both the owner of the TIN and the non-owner. To reverse TOP offsets for mixed entity cases:
 1. Research to determine which taxpayer's refund was offset. The DLN of the TC 846 and the TC 898 will match the DLN of the original return.
 - contacts the agency to determine which taxpayer owes the TOP obligation.
 3. If research indicates the correct taxpayer was offset, do not reverse the offset.
 4. If the "wrong" taxpayer was offset, the offset must be reversed after determining that there has not been an agency refund (TC 899 or TC 971 AC 599). See IRM 21.4.6.4.2.7, TOP Offset Research.
 5. If the account is less than 6 years old and needs to be re-sequenced, you need to reverse the offset. If the offset is more than 6 years old, contact the TOP Liaison for manual reversal procedures.
- (2) Reverse TOP offsets for the full amount available, prior to taking any further action on the account. See IRM 21.4.6.4.2.11, Netting TOP Offsets and Reversals. Before reversing any offset to Office of Child Support Enforcement (Agency Codes 1 and/or 2), see IRM 21.4.6.4.2.4, Child Support TOP Offsets.

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- (3) If there was an Agency Refund for the full amount do not reverse the TC 898. If there was an Agency Refund for a partial amount reverse any remaining amount TC 898/TC 971 AC 598 minus any TC 899/TC 971 AC 599.
- (4) Continue to adjust the account using normal Mixed Entity procedures as outlined in IRM 21.6.2.4.2, Mixed Entity Procedures.

21.4.6.5.18
(02-01-2016)
**Scrambled SSN Cases
with TOP Offsets**

- (1) A true scrambled SSN case occurs when the Social Security Administration assigns the same SSN to more than one taxpayer. TOP offsets must be reversed for condition 2 scrambled SSN cases. Before reversing any offset to Office of Child Support Enforcement (Agency Codes 1 and/or 2), see IRM 21.4.6.4.2.4, **Child Support TOP Offsets**.
- (2) TOP offsets on condition 1 scrambled SSN cases are reversed only if the wrong taxpayer's money offset to the debt.
- (3) To reverse TOP offsets for scrambled SSN cases:
 1. Reverse an offset only when you can establish that the taxpayer who

Liaison if you have not received a response after 5 business days.
 2. If research indicates the correct taxpayer was offset, do not reverse the offset.
 3. If the "wrong" taxpayer was offset, reverse the offset after determining that there has not been an agency refund, TC 899. See IRM 21.4.6.4.2.9 TC 766 with OTN TOP Offset Reversal.
- (4) If preliminary research does not indicate an agency refund, follow Scrambled SSN Procedures in IRM 21.6.2.4.3, Scrambled SSN Case Procedures.
- (5) Scrambled SSN cases with TOP offset (TC 898) must be reversed in whole (TC 766 with OTN), unless any agency refund has been issued.

21.4.6.5.19
(10-01-2020)
Re-sequence Cases

- (1) Prior to re-sequencing an account to a temporary number or different valid TIN, reverse any TC 898 on the "**from**" account if it is within 6 years from the date of original offset. Use RC 087. Based on the new Treasury regulation that limits the time which Treasury may reverse a tax refund offset to child support (up to 6 months), BFS may not return the funds to the . For Child Support offsets Agency Code 1 and 2, reverse the offset, however, you **must** use Hold Code 4 to ensure that the credit does not refund. The TOP Liaison Office will reverse the TC 766 when it appears on the Reject Listing. See IRM 21.4.6.4.2.4, Child Support Top Offsets.
 - a. The net TOP offset amount must be zero on the "**from**" account for a successful merge. See IRM 21.4.6.4.2.11, Netting TOP Offsets and Reversals.
 - b. Allow three weeks for the posting of the reversal transactions when calculating the six-year period. Do not reverse any TC 898(s) on the "**to**" account unless other conditions allow for it.
- (2) If there are two or more offsets with different dates, consider each one separately when determining the six-year period for reversal.
- (3) All TOP reversals must be input to the TIN from which the offset occurred, so that the correct debtor's account can be updated with the agency.

Caution: A reversal of the offset cannot be input after six years have elapsed from the date of the TC 898. This causes an UPC 134 RC 03. Do not attempt to reverse the offset, merge the case without regards to the TC 898.

21.4.6.5.20
(01-20-2017)

Mixed Period Cases

- (1) To reverse mixed-period offsets, with TOP offset from incorrect-year return posting first, take the following actions:
 - a. Request CC IMFOL, CC RTVUE, and CC MFTRA and returns on all years involved.
 - b. Transfer any misapplied payments to the correct period. Use a secondary TC 570 as needed.
 - c. Input a TC 971, AC 001 to cross-reference the correct tax period.
 - d. Increase or decrease tax and credits to reflect the correct figures. Use the appropriate HC. See IRM 21.4.6.5.12, TOP Offset Reversals.
 - e. Input the TC 766 as a separate adjustment in the required input order.

Caution: If the date of offset is over 6 years, a manual reversal request is required. See IRM 21.4.6.5.12.2, Manual Reversal of TOP Offset. Before reversing any offset to Office of Child Support Enforcement (Agency Codes 1 and/or 2), see IRM 21.4.6.4.2.4, Child Support TOP Offsets.

- f. If the correct return has been filed and an overpayment is indicated, reverse only the portion of the overpayment that should not be applied to the TOP account.
 - g. If an agency refund has occurred, do not reverse the TC 898 or TC 971 AC 598 (manual input of TOP offset record) for any amount refunded by the agency. Advise the taxpayer that a processing error has been made and explain that any additional offset or balance-due notice will be issued during reprocessing.
 - h. If a refund was issued and Earned Income Tax Credit (EITC) is involved, refer to IRM 21.6.3.4.2.7, Earned Income Tax Credit (EITC).
 - i. If a refund was issued and Earned Income Tax Credit (EITC) or other refundable credits (e.g. Additional Child Tax Credit, Making Work Pay Credit, American Opportunity Credit, etc.) is involved, refer to IRM 21.6.7.4.2.7.3 (1)(n), Incorrect Year Posted First.
- (2) If there is no TC 150 in the correct tax period:
 - a. Reprocess the return to the correct tax module. Refer to IRM 21.5.2.4.23, Reprocessing Returns/Documents.
 - b. If a Form 8379, Injured Spouse Allocation is attached to the return, renumber and process the return in BS 920-929.
- (3) If there is a TC 150 on the correct year, adjust and work the return for the correct tax period. If a Form 8379, Injured Spouse Allocation, is attached, input a TC 971, AC 071. Advise the taxpayer of corrective action.

21.4.6.5.21
(02-01-2016)

CP 29 E– Freeze Injured Spouse Allocations

- (1) Form 8379, Injured Spouse Allocation, may post to the Master File as an amended return without an original, creating an E– Freeze, when the injured spouse files Form 8379 their own TIN, instead of the primary TIN shown on the original joint return.

- (2) Resolve the E– Freeze on the incorrect TIN according to CP 29 instructions in IRM 21.6.7.4.2, Amended Return — No Original — CP 29 (Amended Return Posts to an Account With No Original Return Present).
- (3) When the Form 8379, posts to the wrong spouse's TIN, work the form under the correct TIN, before reversing any offset to Office of Child Support Enforcement (Agency Codes 1 and/or 2), see IRM 21.4.6.4.2.4, Child Support TOP Offsets.
 - a. Input TC 971, AC 071, to show that a Form 8379 was received. The transaction date is the received date of the Form 8379.
 - b. Process the Form 8379, Injured Spouse Allocation under the correct TIN. See IRM 21.4.6.5.8, Form 8379, Injured Spouse Allocation.
- (4) When the original Form 1040, U.S. Individual Income Tax Return, is found behind Form 8379:

If	Then
Form 8379 posted to the correct TIN and the original return is found behind the Form 8379	<ol style="list-style-type: none"> 1. Process the return with a new DLN, BS 920–929, before working the allocation. 2. Staple Form 8379 behind Form 1040 and send for processing.
Form 8379 posted to the incorrect TIN, and the original Form 1040 is behind the Form 8379	<ol style="list-style-type: none"> 1. Reprocess the return with a new DLN, BS 920–929, before working the allocation. 2. Resolve the (E-) freeze condition according to the CP 29 instruction in IRM 21.6.7.4, Adjusting Individual Tax Returns. 3. Input TC 971, AC 002.

21.4.6.5.22
(10-01-2014)

Returned Refund Check

- (1) The IRS overpayments that were partially TOP-offset and partially refunded, and are later returned and credited to the taxpayer's account (TC 740/TC 841), may be for an amount less than the original refund, TC 840/TC 846. Some examples of returned payments include:
 - Undelivered refunds
 - Checks returned uncashed by the taxpayer
 - Checks uncashed after 13 months
- (2) Bureau of the Fiscal Service will normally reverse all offsets associated with a canceled refund and return the full amount of the original TC 840/TC 846 to . However, Bureau of the Fiscal Service will deduct from the original refund any portion of the offset previously reversed by the IRS (TC 76X with OTN), and/or previously refunded by the agency (TC 899 type 2 and 3, less TC 899 type 4), with the same OTN(s) as the TC 898(s) offset.

Caution: A TC 899 Type 1 should be on the account if there is a posted TC 740 or TC 841 on the module. If a TC 899 Type 1 is not posted research CC UPTIN. **Do not input the TOP offset reversal.** If research indicates the TC 899 Type 1 is unpostable, contact the TOP Liaisons for guidance.
- (3) If the undelivered or canceled refund, TC 740/TC 841, is less than the TC 840/TC 846, and credit interest, TC 770/TC 776, was included, then Master

File (MF) prorates the amount of interest reversed. The calculation below provides the amount of interest related to the portion of the refund that was canceled.

Prorated Interest on Partial Refund Cancellation				
TC 777	=	TC 740/TC 841 TC 840/TC 846	×	TC 770/TC 776

- (4) The following example illustrates a returned refund, TC 841, that posted for an amount less than the original refund that was offset. The original refund for \$1,586, TC 846 dated 03/06/2009, was offset for \$1,000, TC 898. Master File reversed \$550, TC 766, and the agency refunded \$450, TC 899 type 2, leaving only \$586 for Bureau of the Fiscal Service to return.

Note: This example illustrates the exception to the rule. Most of refunds are canceled for the original amount issued.

Example:

TC	POSTED	AMT	CYC	DLN	
846	03062012	1,586.00	20121209	28221-067-92005-2	BPI>0
898	03062012	.00	20121210	28277-067-92005-2 OFFST-AMT> 1,000.00 OTN-CD>12345-67890	OTN>12345-67890
290	04192012	.00	20121214	28254-109-00001-2	
ADJ-RSN-CD>86...					
766	04152012	550.00-	201214	28254-109-00001-2 OTN-CD>12345-67890	BPI>1
846	04192012	550.00-	20121214	28254-109-00001-2	BPI>1
899	03092012	.00	20121222	28221-067-92005-2 OFFST-AMT> 450.00-	
OTN-CD>12345-67890 OFFST-REC-TYPE>2					
841	03062012	586.00	20121226	28277-178-99999-2	
					CK#>000 9435871

- (5) A UPC 138, RC 0, will still result if there is a TC 898 TOP offset and the TC 740/TC 841 is less than the related TC 840/TC 846: (TC 899 type 2 or 3) + (TC 899 type 4) - (TC 76X), all with the same OTNs as the TC 898. Refer to IRM 3.17.79.10.7, Incorrect Cancellation Amounts, for correcting UPC 138.
- (6) In the above example, the TC 841 would unpost if it were less than \$586.00, determined as follows:

$$\$1,586.00 \text{ (TC 846)} - \$450.00 \text{ (TC 899 type 2)} - \$550.00 \text{ (TC 76X)} = \$586.00$$

Note: The TC 76X will always be a negative number or zero. The net of all TC 76X with the same OTN cannot be greater than zero. Disregard all signs when adding or subtracting the transaction amounts.

- (7) If the address needs to be updated on the returned refund check and a BPI is required to avoid an inappropriate offset to a TOP debt, do not request the duplicate refund issuance through CC CHK64. Prepare a manual refund with the appropriate BPI.

21.4.6.5.22.1
(04-15-2014)

Injured Spouse Returned Refunds

- (1) When the injured spouse files a Form 8379, Injured Spouse Allocation, that results in a reversal and refund of the TOP offset, and the agency also refunds the offset for some reason, the injured spouse often returns the IRS refund.
- (2) If the TC 841 creates a credit balance and it is determined that the TOP offset reversal was honored by Bureau of the Fiscal Service, inform the taxpayer that they must return the refund to the agency. Explain that the IRS has already obtained the offset funds from the agency and that the agency is now owed the money. The IRS can no longer manually repay the refund to the agency. Allow the credit to refund if there are no other open issues. Refer to IRM 21.5.6.4.31, P— Freeze.
- (3) If the injured spouse explains that the agency issued a refund and the TC 841 satisfies a debit balance in the module, no further action is necessary. This occurs when a TOP offset reversal, TC 766 with OTN, was denied by Bureau of the Fiscal Service (subsequent TC 767 in the module with the same OTN).

Caution: Do not input TC 767 with OTN to correct a TC 766. See IRM 21.4.6.5.12.3, TC 766 Reject Listing, for information on denied TOP reversal requests.

21.4.6.5.23
(04-15-2014)

TOP Unpostable Conditions

- (1) The unpostable codes explained below deal with conditions specifically related to TOP offsets. Some of these codes may also occur when you attempt to post other transactions not explained in this section. Refer to Document 6209, IRS Processing Codes and Information, for additional transactions and reason codes not shown here.

21.4.6.5.23.1
(05-07-2018)
UPC 134

- (1) A UPC 134, RC 03, is an IMF unpostable that occurs when an account containing a full or partially unreversed TC 898 (net offset amount greater than zero) attempts to merge with another account, and the 23C date of the TC 898 is within six years of the current date. Refer to IRM 21.6.2, Adjusting TIN-Related Problems.
1. On the “from” account, identify all modules containing TC 898(s) and determine whether the net offset amounts are greater than zero and less than six years have passed since the date of offset. See IRM 21.4.6.4.2.11, Netting TOP Offsets and Reversals.
 2. Input a TOP offset reversal to reverse the net offset amount remaining on any/all tax modules.
 3. After all adjustments have posted, attempt to merge the accounts again.

Caution: Be sure that all TC 898(s) net to zero before attempting to merge the accounts again.

- (2) A UPC 134, RC 05, occurs when a TC 766 with an Offset Trace Number (OTN) attempts to reverse a TC 898 with the same OTN, and the 23C date of the offset is more than six years from the date of reversal.
- Do not attempt to re-input the adjustment. The account must be corrected without regard for the offset. If necessary, treat the offset as an erroneous refund.

Reminder: If you need to reverse a TC 898/TC 896 that is over six years contact

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21.4.6.5.12.2, Manual Reversal of TOP Offset, for additional instructions. Please allow up to 180 days for the manual reversal to post.

21.4.6.5.23.2
(10-01-2014)

UPC 137 or UPC 437

- (1) UPC 137 and UPC 437 are IMF and BMF UPC(s) unique to the posting of a TC 898 or TC 899.
- RC 1 results from an attempt to post a TC 898 with document code 45 when it does not find a TC 840 with the same DLN after 10 cycles.
 - RC 2 results from an attempt to post a TC 898 with document code 45 attempting to post and it does not find a TC 840 with the same date or TC 898 with document code 77 does not find a TC 846 with a date within 12 days of the date of the TC 898.
 - RC 3 results from an attempt to post a TC 898 when the amount is greater than the TC 840/TC 846 with the same dates.
 - RC 4 results from an attempt to post a TC 899 when it does not find a TC 898 with the same OTN.
 - RC 5 results from an attempt to post a TC 899 for an amount greater than the net TOP offset amount. See IRM 21.4.6.4.2.11, Netting TOP Offsets and Reversals.

Note: In some instances, the TC 898 was deleted erroneously. A TC 899 will **NEVER** post to the account without a previously posted TC 898. You may see a TC 971 AC 598 or a TC 971 AC 599 which represents the manual input of an erroneously deleted TC 898 or TC 899 transaction. You must consider these transactions when netting the TOP offset amount.

- RC 6 results from an attempt to post a TC 899 with an XREF TIN that does not find a prior posted TC 898/TC 899 with the same XREF TIN (Not applicable to BMF).
- (2) The Unpostables unit attempts to correct each of the above conditions. The case is referred to the appropriate Accounts Management (AM) Function if Unpostables is unable to correct the transaction.

Note: Bureau of the Fiscal Service cannot regenerate another TC 898 or TC 899 transaction when it has been erroneously deleted. Therefore, this unpostable transaction **must NEVER be deleted**.

- AM attempts to resolve the unpostable condition through research before contacting Bureau of the Fiscal Service.
- Determine if the refund that was offset posted to a different tax period. Compare dates and DLNs and correct the tax period on CC UPRES, if necessary.

3. Check the entity to see if the account was re-sequenced to another TIN. Locate a refund on the other TIN that has the same dates and DLN and correct the TIN on CC UPRES, if necessary.
4. Check any XREF TIN to see if the refund that was offset posted under a different primary TIN. Correct as needed.
5. If there is a discrepancy with the TC 898/TC 971 AC 598 or TC 899/TC

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21.4.6.5.23.3
(10-01-2013)
UPC 151

- (1) For TOP Offset (TC 898) and Agency Reversal (TC 899), UPC 151 RC 0 occurs when the TC 898/TC 899 transaction returned by Bureau of the Fiscal Service has a different name control than the one used by .

Example: Primary and secondary taxpayers have different last names and the secondary taxpayer is the debtor. Bureau of the Fiscal Service provides the debtors name only. Consequently, the name control does not match master file.

1. If there is a UPC 151 RC 0 on the account, research CC UPTIN of the campus identified in the Refund Schedule Number (RSN) of the TC 846/TC 840 on the account. To determine the appropriate campus, use the 8th and 9th position of the RSN. See IRM 3.17.79–4, Refund Schedule Number Format.
 2. Use CC UPCAS with Definer Z to input a message with the correct name control.
 3. Monitor the account for the TC 898/TC 899 to post, do not close the IDRS control base.
 4. When TC 898/TC 899 posts, work your Injured Spouse case.
- (2) Occasionally, the TC 898 was deleted in error (DU 898 on CC TXMOD). When this occurs, you cannot do a TC 766 to reverse the offset systemically. You will need to do a manual reversal request. See IRM 21.4.6.5.12.2, Manual Reversal of TOP Offset.

Note: You may see a TC 971 AC 598 which indicates the manual input of a deleted TC 898 transaction. You will need to do a manual reversal request.

- (3) If there is no DU 898 on CC TXMOD, research CC UPTIN of the campus identified in the Refund Schedule Number (RSN) of the TC 846/TC 840 on the account. To determine the appropriate campus, use the 8th and 9th position of the RSN. See IRM 3.17.79–5, Refund Schedule Number Format, for additional information. If research indicates the TC 898 was deleted, see IRM 21.4.6.5.12.2, Manual Reversal of TOP Offset, to initiate procedures for a manual reversal request.

21.4.6.5.23.4
(09-22-2017)
UPC 168

- (1) UPC 168, RC 0, is an IMF unpostable code that occurs when TC 766 with OTN fails to find a previously posted TC 898 with the same OTN. Input the reversal with the correct OTN or on the correct tax period, MFT, etc.
- (2) UPC 168, RC 0, also occurs when an RN 808/809/810/811 is input after a RN 808/809/810/811 was previously input, but the refund didn't release due to a hold code or TC 570. Input a TC 290 for .00 **without** the corresponding RN 808/809/810/811 to release the overpayment. The TC 846 will generate the appropriate bypass indicator based upon the previously unreleased RN 808/809/810/811 that is posted.

21.4.6.5.23.5
(04-15-2014)
UPC 189

- (1) For TOP offsets, UPC 189, RC 06, occurs when a TC 766 with OTN is greater than the net TOP offset amount. See IRM 21.4.6.4.2.11, Netting TOP Offsets and Reversals.
 1. Recompute the amount of the TC 766.
 2. Be sure to consider all pending and posted TC 899(s) or TC 971 AC 599(s) and TC 766(s) with the same OTNs.

21.4.6.5.23.6
(02-22-2013)
UPC 342

- (1) UPC 342, RC 05, is a BMF unpostable code which occurs when TC 766 with OTN fails to find a previously posted TC 898 with the same OTN.
- (2) UPC 342, RC 06, occurs when a TC 766 with OTN is greater than the net TOP offset amount. See IRM 21.4.6.4.2.11, Netting TOP Offsets and Reversals.
- (3) UPC 342, RC 07, occurs when a TC 767 with OTN is greater than the net TC 76X with same OTN. See IRM 21.4.6.5.12.3, TC 766 Reject Listing.
- (4) UPC 342, RC 08, occurs when a TC 766 with OTN attempts to reverse a TC 898 with the same OTN, and the 23C date of the offset is more than six years from the date of reversal.
 - a. Do not attempt to re-input the adjustment. The account must be corrected without regard for the offset. If necessary, treat the offset as an erroneous refund.

Note: If you need to reverse a TC 898/TC 896 that is over six years, a manual reversal is required. See IRM 21.4.6.5.12.2, Manual Reversal of TOP Offset.

21.4.6.5.24
(04-15-2014)
TOP Utility 50 Run

- (1) AM Process and Program Management produces a Utility 50 Run in October of each year to determine the volume and money amount of unresolved Form 8379, Injured Spouse Allocations.
Most common reasons for an unresolved condition are listed below:
 - a. TC 766 was input with a HC that is holding credit on the module (—K Freeze).
 - b. A returned refund check resulting from a Form 8379, Injured Spouse Allocation, has posted to the account (P— Freeze).
 - c. A manual refund was issued for an amount greater than the credit available on the module (—X Freeze).
 - d. Form 8379, Injured Spouse Allocation, posts to wrong spouse's TIN (E-Freeze).
- (2) These freeze conditions are resolved with the adjustment indicated by account research.
 - a. Release HCs.
 - b. Use a manual refund to reissue a returned refund check.
 - c. Process erroneous refunds.
 - d. Use CP 29 E- Freeze procedures.
- (3) Debit balances are worked and accounts showing refunds more than available credits are processed as appropriate.

- (4) Accounts with undeliverable refund checks must be researched for the correct address for re-issuance of a manual refund.

21.4.6.5.25
(04-15-2014)
Non-Master File Child Support

- (1) IRC 6305 authorizes the IRS to assert its full collection powers to enforce and collect certain delinquent child support obligations. This is commonly referred to as the "Full Collection" program. Refer to IRM 5.1.12.11, Child Support Obligation, which provides additional information, including the NMF assessment and collection processes.
- (2) Public Law 93-647 authorizes the collection of child support debts through this "Full Collection" procedure.
- (3) The obligation is assessed as a tax on NMF, MFT 59.
- (4) If copies of legal documents or forms regarding support obligations are received, forward them to the NMF IRS Campus.

Reminder: The Full Collection program is not related to refund offsets for child support made under the TOP programs.

21.4.6.5.26
(02-22-2013)
Injured Spouse Allocations/Telephone Excise Tax Refund (TETR)

- (1) If the taxpayer claimed the TETR refund on their 2006 original return and allocated the TETR refund on Form 8379, Injured Spouse Allocation, follow the instructions on Line 11, of Form 8379. Interest should be figured based on each taxpayer's share of the TETR refund claimed on the original return.
- (2) If the taxpayer claimed the TETR refund on their original return but did not allocate the credit on Form 8379 allocate the TETR refund 50/50, one-half for each spouse, split any interest 50/50. Send Letter 3179C, Refund Offset to Treasury Offset Program (TOP) and Injured Spouse Inquiries, to the taxpayer informing them: "We received and processed your Form 8379. Our records show you did not allocate the Telephone Excise Tax Refund on your Form 8379. Therefore, we allocated the credit for you, giving each spouse one-half of the credit. If you do not agree with the allocation, you must submit a new Form 8379 allocating the credit as you determine and attach any supporting documentation."

21.4.6.5.27
(02-22-2013)
Injured Spouse Allocation/Stimulus Payment for 2008

- (1) When you have a Form 8379 for the original refund, which has been processed and the stimulus payment is posted, you will work the Form 8379 for both the original refund and the stimulus payment.

Note: If interest is due on the original overpayment, you will figure the interest on the original overpayment. Interest is only paid on the stimulus portion if the stimulus payment offset and was subsequently reversed. See paragraph (4) below.
- (2) Compute an allocation for the original offset and 50 percent for the stimulus payment. The stimulus payment is always split 50 percent regardless of the amount of income, credits/children claimed or community property jurisdiction if it falls within the period of limitations for refunding.
- (3) If part of the stimulus payment was offset and part was refunded to the taxpayers, deduct the refunded amount from the credit amount to determine if the injured spouse is entitled to any additional refund.

- (4) Once the stimulus payment offsets to pay a Federal tax debt or TOP debt, it loses its identity as a stimulus payment. Normal Interest rules apply when considering credit interest if all or part of the credit is subsequently refunded. Refer to IRM 21.6.3.6.8, Tax Year 2007 Offset Reversal Issues: Injured Spouse/Innocent Spouse/EITC.
- (5) All injured spouse can be worked as a normal case if the Economic Stimulus Payment (ESP) was not reversed in cycle 200852. If the ESP was reversed in cycle 200852, the taxpayer had to claim the ESP on their 2008 return. See IRM 21.4.6.5.27.1, Injured Spouse Allocation/Recovery Rebate Credit (RRC).
- (6) When working an injured spouse case after offset of the original overpayment and the stimulus payment, you will input two adjustments. One adjustment will be for the original overpayment and the second adjustment will be for the ESP. Be sure to use the correct OTN for each adjustment.
- (7) If there is a joint debt and one or both spouses owes an individual debt you must first pay off the joint debt then:
 - a. split the remaining ESP equally between both spouses
 - b. apply any applicable ESP to the individual debt owed; or
 - c. reverse any previous offset ESP which belongs to the injured spouse and
 - d. issue a manual refund to the injured spouse

If there is no allocation involved, you will split the remaining ESP after paying the joint debt. Do not follow the procedures in IRM 21.4.6.5.10, Allocation of Injured Spouse Form 8379. This is used only for processing normal injured spouse cases.

21.4.6.5.27.1
(02-22-2013)
**Injured Spouse
Allocation/Recovery
Rebate Credit (RRC) for
2008**

- (1) The Recovery Rebate Credit (RRC) is a one-time benefit for people who didn't receive the full economic stimulus payment in 2008 and whose circumstances may have changed, making them eligible now for some or all the unpaid portion.
- (2) Each spouse must take their own exemption and is entitled to their share of the joint RRC/ESP up to \$600.00. Allocate any recovery rebate credit received for any children to the spouse who was allocated the qualifying child's exemption on Form 8379, Injured Spouse Allocation. Exemptions for the children must be entered in whole numbers only. For example, you cannot allocate an exemption by giving each spouse 1/2 of the exemption.
- (3) If the taxpayer is claiming the RRC on their 2008 return, you will need to look at the 2007 account. Determine if the injured spouse's share of the 2007 ESP was reversed in Cycle 200852 or the 2007 ESP was not received (return not filed or not eligible for some or all the ESP). If either spouse's share of the RRC was reversed in cycle 200852, the amount reversed should be allocated to that spouse. The remaining RRC is split 50/50 up to \$600.00 for each spouse, plus any qualifying child exemption amount.

21.4.6.5.28
(10-01-2013)
**First-Time Homebuyer
Credit**

- (1) The American Recovery and Reinvestment Tax Act of 2009 and the Worker, Homeownership, and Business Assistance Act of 2009 extended the first-time homebuyer credit and provided a waiver of the requirement to repay the credit, except when taxpayers dispose of the new residence within 36 months of purchase.

- (2) When working Form 8379, Injured Spouse Allocation, cases involving the First-time Homebuyers Credit (2008, 2009 and 2010), the taxpayer may allocate the credit as they determine, in accordance with the instructions for Form 8379. For community property states, you should follow the community property laws for each state.
- (3) Under IRC 6402 (a), the IRS has discretion whether to offset an overpayment against a liability, but only when it is with respect to an internal revenue tax. Bureau of the Fiscal Service, which administers the Treasury Offset Program, controls the offset of debts under IRC 6402(c)-(f). This includes offsets against past-due support (delinquent child support); past-due legally enforceable debts owed to Federal agencies; past-due legally enforceable State income tax obligations; and covered unemployment compensation debt (basically unemployment compensation received by fraud). Therefore, with respect to amounts paid to a taxpayer under the first-time homebuyer credit, the IRS has no authority under IRC 6402(c)-(f) to prevent BFS from offsetting in those cases in which BFS has determined the offset appropriate. The same rule applies to the original legislation under the Housing Assistance Act of 2008 as it does to the extension under the American Recovery and Reinvestment Act.

21.4.6.5.28.1
(10-01-2014)
**First-Time Homebuyer
Credit Recapture**

- (1) The First-Time Homebuyer Credit (FTHBC), IRC 36 (f)(5), provides that for the recapture tax, 50 percent of the amount of the credit claimed on a joint return is treated as having been allowed to each spouse.

Exception: An Injured Spouse allocated and received the entire First-Time Home Buyer Credit in a previous year is liable for repayment of the recapture tax.

- (2) Research CC IMFOLF to determine if both spouses on the joint return are liable for the repayment of the recapture tax. Allocate it accordingly on the injured spouse worksheet.

Caution: If information is not found on the primary account, research the X-REF TINs under both TINs to determine where the FTHBC was claimed.

- (3) When working Injured Spouse Allocation Cases involving recapture research 2008/2009 returns to determine how the credit was allocated. Refer to IRM 21.6.4.4.17.1, Recapture of First-Time Homebuyer Credit (FTHBC), for guidelines on the recapture. Some examples are provided below:

Example: If a joint return was originally filed claiming the credit, and the credit was split 50/50 between the two spouses; and a joint return is filed with the 6-2/3 percent recapture, it will also be split 50/50.

Example: If separate returns were originally filed and each person claimed part of the credit, each person should recapture 6 2/3 percent on their separate returns.

Example: If separate returns were originally filed and now a joint return is filed reporting the recapture, the system should move the First-Time Home Buyer Credit entity from the secondary to the primary account and split the recapture based on the percentage.

- (4) When working Injured Spouse Allocation Cases involving math errors with

First-Time Homebuyer Credit, follow procedures in IRM 21.4.6.5.8.3(17)(c), Processing of Form 8379 Injured Spouse Allocation, and IRM 21.5.4.5.7, Math Error with Injured Spouse.

- (5) If the Refund Statute Expiration Date (RSED) has expired, see IRM 21.4.6.5.12(4), TOP Offset Reversals.

21.4.6.5.29
(09-13-2019)

**Making Work Pay and
Government Retiree
Credits - Schedule M**

- (1) For tax years 2009 and 2010, the Making Work Pay Credit provides a refundable tax credit of up to \$400 for working individuals and \$800 for married taxpayers filing joint returns. This credit is reported on Schedule M of the Form 1040 or Form 1040A, U.S. Individual Income Tax Return. The credit will be calculated at a rate of 6.2 percent of earned income, and will phase out for taxpayers with a modified adjusted gross income more than \$75,000 (\$150,000 for married couples filing jointly) with total elimination at \$95,000/\$190,000. See IF/AND/THEN Chart in paragraph (5) below.
- (2) For people who receive a paycheck and are subject to withholding, the credit was typically handled by their employers through automated withholding changes made in early spring.
- (3) Taxpayers who do not have taxes withheld by an employer during the year can also claim the credit on the 2009 tax return filed in 2010.
- (4) In addition to the Making Work Pay Credit, certain government retirees also will be eligible for a credit beginning in 2009 in an amount equal to \$250 (\$500 in the case of a joint return where both spouses are eligible individuals). This is also reported on Schedule M and attached to the Form 1040.
- (5) When working an injured spouse allocation for 2009 and 2010, each spouse is entitled to their share of the credit. Follow the chart below to determine how much each spouse is entitled to.

IF	AND	THEN
If one or both spouses has income (see Note below)	The total earned income is \$12,903.00 or less	Calculate each spouse's share at a rate of 6.2 percent up to \$400.00 for each spouse. Example: One spouse earned \$8,000 and the other spouse \$1,500. Total credit would be \$589.00 (9,500 x .062). One spouse is entitled to \$496 (8,000 x .062), but can only be allocated \$400. The other spouse is entitled to \$93 (1,500 x .062). The spouse who did not earn enough for the full \$400 is allocated the \$93 + \$96 (the rest of the first spouses credit).
If both spouses have income (see Note below)	The earned income is \$12,903.00 or more	Split the credit 50/50.
If one spouse has income (see Note below)	The earned income is \$12,903.00 or more (phased out with a MAGI of \$150,000)	Split the credit 50/50. You do not need to complete the Injured Spouse Worksheet. Use the shortcut method and annotate the case 50/50 split for the credit.
If the taxpayers live in a Community Property State see Note below		Calculate the credit based on Community Property Laws for that state.

Note: For all the above scenarios, you will deduct any Economic Recovery Payment (ERP) or Government Retiree Credit received from the spouse who received the prepayment.

21.4.6.5.30
(10-01-2015)
**Shared Responsibility
Payment (SRP)**

(1) Effective January 1, 2014, IRC 5000A, Requirement to maintain minimum essential coverage, requires individuals to:

- maintain minimum essential coverage, or
- have an exemption from the responsibility to maintain minimum essential coverage, or
- make a shared responsibility payment with their tax return.

Note: Under the Tax Cuts and Jobs Act, taxpayers must continue to report coverage, qualify for exemption, or pay the SRP for tax years 2017 and 2018. After 2018, the SRP is \$0."

- (2) A Shared Responsibility Payment (SRP) is reported on Form 1040, line 61, Health care: individual responsibility (Form 1040EZ line 11, Form 1040A line 29, 2018 Form 1040, Schedule 4, Line 61) and will be assessed under MFT 35. See IRM 21.6.4.4.20.3, Shared Responsibility Payment Overview, for more information.

Note: Beginning in tax year 2019, the amount of the SRP has been reduced to zero for all taxpayers. Taxpayers will not report SRP on returns for tax years 2019 and subsequent.

- (3) Taxpayers may allocate SRP on Form 8379, Injured Spouse Allocation, however they choose.

Note: Lien or Levy payments **cannot** be applied to MFT 35. See IRM 21.5.8.4(15), Credit Transfers Overview, for a listing of the Designated Payment Codes.

- (4) If the taxpayer reported the SRP on their original return but did not allocate on Form 8379, allocate one-half the SRP tax for each spouse (50/50). Send Letter 3179C, Refund Offset to Treasury Offset Program (TOP) and Injured Spouse Inquiries or Letter 285C, Refund/Overpayment Applied to Account, to the taxpayer informing them that we allocated it for them. Suggested response: Our records show the Shared Responsibility Payment (SRP) was not allocated on Form 8379. We allocated the payment for you, giving each spouse one half of the SRP. If you do not agree, you must submit a new Form 8379 allocating the payment as you determine.

Exception: A letter is not needed for NCP SC-1, NCP SC-3 or Community Property allocations.

21.4.6.5.31
(09-13-2019)
Premium Tax Credit

- (1) Premium Tax Credit (PTC) is a tax credit for those who enroll, or whose family member(s) enrolls, in a qualified health plan offered through a Marketplace. Taxpayers compute the PTC on Form 8962, **Premium Tax Credit**. A taxpayer claims additional PTC on Form 8962, line 26, if the taxpayer's allowable PTC exceeds the amount of advance PTC, payments paid on the taxpayer's behalf. The additional PTC is reported on:

- Form 1040 line 69 (2017 and prior),
- Form 1040 Schedule 5, Line 70 (2018)
- Form 1040 Schedule 3, Line 9 (2019)
- Form 1040A, Line 45 and
- Form 1040NR line 65.

Premium Tax Credit (PTC) on Form 8379, is effective for tax years 2014 and subsequent.

- (2) Taxpayers may allocate the Premium Tax Credit any way they choose.
- (3) If the taxpayer claimed the PTC on their original return but did not allocate the credit on Form 8379, allocate one-half the PTC for each spouse (50/50). Send Letter 3179C, Refund Offset to Treasury Offset Program (TOP) and Injured Spouse Inquiries or Letter 285C, Refund/Overpayment Applied to Account, to the taxpayer informing them that we allocated it for them. Suggested response: Our records show the Premium Tax Credit (PTC) was not allocated on Form

8379. We allocated the credit for you, giving each spouse one half of the PTC. If you do not agree, you must submit a new Form 8379 allocating the credit as you determine.

Exception: A letter is not needed for NCP SC-1, NCP SC-3 or Community Property allocations. See IRM 21.4.6.5.10 (4) Note.

21.4.6.5.31.1
(01-21-2022)
**Excess Advance
Premium Tax Credit
Repayment**

- (1) A taxpayer has excess advance payment of PTC (excess APTC) if the amount of the APTC paid on the taxpayer's behalf exceeds the taxpayer's allowable PTC. For tax years other than 2020 the taxpayer must repay all or a portion of the excess APTC. The repayment amount is reported on line 29 of Form 8962, **Premium Tax Credit**, and on:
 - Form 1040 line 46 (2017 and prior),
 - Form 1040 Schedule 2, Line 46 (2018)
 - Form 1040 Schedule 2, Line 2 (2019)
 - Form 1040A Line 29 and
 - Form 1040NR line 44.
- (2) Taxpayers may allocate the excess advance premium tax credit repayment on Form 8379, any way they choose.
- (3) If the taxpayer reported excess APTC on their original return but did not allocate the excess APTC on Form 8379, allocate one-half the APTC for each spouse (50/50). Send Letter 3179C, Refund Offset to Treasury Offset Program (TOP) and Injured Spouse Inquiries or Letter 285C, Refund/Overpayment Applied to Account, to the taxpayer informing them that we allocated it for them. Suggested response: Our records show the Excess Advance Premium Tax Credit Repayment (APTC) was not allocated on Form 8379. We allocated the repayment for you, giving each spouse one half of the excess APTC repayment. If you do not agree, you must submit a new Form 8379 allocating the repayment as you determine.

Exception: A letter is not needed for NCP SC-1, NCP SC-3 or Community Property allocations.

Note: The American Rescue Plan Act (ARPA) waived the repayment requirement for tax year 2020. Taxpayers, who after completing Form 8962, find they have a repayment requirement, should **not** file Form 8962 or report the repayment amount as a tax liability. See IRM 21.6.3.4.2.12, Premium Tax Credit.

21.4.6.5.32
(01-16-2018)
**Erroneous Offset
Overpayments to
Limited Liability
Companies (LLC)**

- (1) Effective January 1, 2009, all Limited Liability Companies (LLC) were recognized and treated as corporations that are separate and distinct from individual members for employment tax purposes. However, the IRS systems did not accurately account for the change in law and erroneously offset refunds/overpayments from the taxpayer's individual tax return to their LLC tax period(s).
- (2) The IRS corrected the programming and issued Letter 3064C to advise the taxpayer that they have the option of leaving the transferred funds on the LLC tax period(s) and not having it transferred back to the individual income tax account(s) or transferring the funds back to the individual account(s).

- (3) If the funds are transferred back to the individual income tax account(s), a refund will be generated if there are not any outstanding taxes or State or Federal debts owed by the taxpayer. The money from the LLC tax periods will go toward any outstanding liability first.
- (4) If the IRS does not hear from the taxpayer, the funds will be transferred back to the IMF account and the IRS will begin the process of issuing refunds (where appropriate) from the individual income tax year(s).
- (5) Once the funds are transferred, it will create a balance due **plus interest** on the LLC tax period(s) and a credit on the individual income tax year(s), from where the refund will be generated.

Caution: The taxpayer will be responsible for the balance due created on the LLC tax periods when the credits are transferred back to the IMF account.

- (6) If the taxpayer calls or corresponds and would like to leave the funds on the LLC account:
 - input a TC 290 for .00,
 - use taxpayer correspondence as the source document (SD), or
 - in the case of oral statement, prepare Form e-4442 or **Inquiry Referral**, history sheet or phone documentation sheet to use as the SD.
- (7) The SD documentation must include **all** the following:
 - Taxpayer must confirm that they would like the funds to remain on the LLC account.
 - Payment Document Locator Number (DLN) (matching the transfer DLN)
 - Tax form for the applicable Master File Tax (MFT) Code, tax period, and payment date

Note: Be sure to include any additional pertinent information that the taxpayer may provide.

- (8) All refunds will be transferred back to the individual income tax year(s), unless the taxpayer responds in writing or verbally that they want the funds to remain on the LLC tax period(s). Therefore, if the taxpayer does not respond by the time frame given in the Letter 3064C, The IRS will transfer the funds back to the individual tax account where it was originally offset from and enter the appropriate information in the "Remarks" section of the credit transfer. Indicate that the back-up information is Letter 3064C for your action.

Note: Before transferring any funds back to the individual tax account, be sure to research IDRS/AMS to make sure that the taxpayer did not call requesting the funds remain on the LLC account rather than transferring to the IMF account.

- (9) If the taxpayer responds after the time frame provided in the letter (30 days), we will honor their request if the funds have not yet been applied back to the IMF accounts.
- (10) If credits are applied back to the IMF account and then refunded because there are no other tax, penalty or interest obligations, the taxpayer may void the check and return with instructions to apply the funds back to the LLC tax period(s).

(11) For additional information, see IRMs listed below:

- IRM 21.5.8, Credit Transfers
- IRM 21.5.2.4.6, Remarks Field
- IRM 21.5.2.4.5, Source Documents
- IRM 21.1.3.20.1, Oral Statement Documentation

21.4.6.5.33
(09-06-2022)
**Economic Impact
Payments (EIPs)**

- (1) The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), H.R. 133, Consolidated Appropriations Act, 2021, and the American Rescue Plan Act of 2021 (ARPA) provided eligible individuals with recovery rebate credits (RRC) for tax years 2020 and 2021, that the IRS paid to each eligible individual as an advance payment referred to as an Economic Impact Payment (EIP). The IRS issued three EIP payments: EIP 1 and EIP 2 (advance payments of the RRC for TY 2020), and EIP 3 (advance payment of the RRC for TY 2021). The IRS was authorized to use certain information that a taxpayer provided on the taxpayer's recently filed tax return to determine a taxpayer's eligibility for each EIP, as follows
- EIP 1 – eligibility determined from TY 2019 return or, if no return was yet filed for TY 2019, from TY 2018, if filed
 - EIP 2 – eligibility determined from TY 2019 return, if filed
 - EIP 3 – eligibility determined from TY 2020 return or, if no return was yet filed for TY 2020, from TY 2019, if filed.
- (2) Some Economic Impact Payments “(EIPs)” needed to be recalculated or reversed and returned by the Bureau of the Fiscal Service (BFS). A systemic recovery was implemented to correct these accounts. However, in some instances the recovery did not work.
- (3) If calls are received regarding an account with EIP
1. DO NOT tell the taxpayer their payment was offset to a TOP Debt.
 2. DO NOT provide the currently posted or a recalculated amount of EIP.
- Note:** EIP is split between spouses and is not allocated between spouses based on income or dependents on the return.

Advise the caller:

- An error was made when calculating the EIP, and we are working to correct the impacted accounts. We are recalculating the EIP and, if applicable, refunding the recalculated EIP.
- (4) If the taxpayer filed Form 8379, Injured Spouse Allocation, requesting the EIP on the year 2018 or 2019 used to calculate the Economic Impact Payments (EIP), or you received Form 8379, for 2020 requesting the injured spouses share of the EIP review the account to determine if the TC 766 and refund have posted take the following actions: .
- If the TC 766 and refund have posted
 - Verify that the corrective action is accurate before closing
 - Close your case using Document Type-Internal Transcript, IDRS Cat Code IRRQ, Program Code 40000
 - No other action is needed on the account.

If you receive a new or subsequent Injured Spouse Form 8379, for 2018, 2019 or 2020 requesting the 2020 EIP and the TC 766 has not posted or the full

refund has not been issued to the taxpayer and there is no TC 150 on the 2020 account take the following actions:

- Input a TC 766 with OTN
- RC 86, SC 7 and HC 2
- BPI 3 or 4 as applicable

Note: Use BPI 3 unless the Injured Spouse owes Child Support. See IRM 21.4.6.4.2.1, TOP Offset Bypass Indicator (BPI).

- Issue a manual refund, Notate your manual refund with “Injured Spouse System Fix”

Note: If box 11 of Form 8379 is checked issue the refund in both names. Use the name line of the year the EIP was determined.

- Close you case using Document Type-Internal Transcript, IDRS Cat Code IRRQ, Program Code 40000. If the address on ENMOD is different than the address on the Form 8379 contact the taxpayer either by phone or correspondence to verify their address.

If the TC 150 has posted, a manual refund is not needed. However, if they are filing jointly in 2020 with a different spouse than the spouse used to calculate the EIP on either 2018 or 2019 return a manual refund is needed.

Note: In all instances above check both spouses’ SSN to ensure the EIP credit did not post to the secondary SSN.

- (5) If the taxpayer calls or writes disputing the amount of their EIP, advise the taxpayer either by phone or letter that the EIP is split between spouses and is not allocated between spouses based on income or dependents on the return.
- (6) If you receive a Form 8379 for both the regular refund on 2018 or 2019 and EIP 1 and/or EIP 2, work the non-EIP portion on the 2018 or 2019 account and work the EIP portion on the 2020 account. Work any EIP 3 portion on the 2021 account.
- (7) If you receive a Form 8379 for both the regular refund on 2018 or 2019 and EIP, work the non-EIP portion on the 2018 or 2019 account and work the EIP portion on the 2020 account.

Note: Once an EIP payment offsets, it loses its identity as an EIP refund. EIP offsets can be reversed if injured spouse requirements are met. If there is no Form 8379 on file, the injured spouse must file Form 8379, to request their share of the EIP which offset.

Reminder: After December 31, 2020, EIP 1 could no longer be issued and had to be claimed on a 2020 tax return as RRC. After January 15, 2021, EIP 2 could no longer be issued and had to be claimed on a 2020 return as RRC. After December 31, 2021, EIP 3 could no longer be issued and had to be claimed on a 2021 return as RRC.

21.4.6.5.33.1
(03-02-2021)
**2019 Pseudo TOP Debts
TC 898 with Agency ID
XX**

- (1) Some modules appear to have a TOP offset and can be identified by the posting of a TC 898 with an Agency ID of “XX” and an Agency Site ID “DF” or “PF”. However, **these are not true TOP offsets**. A systemic recovery was implemented to correct these accounts. However, in some instances the recovery did not work.

- (2) If calls are received regarding an account with a TC 898 with an Agency ID of "XX" and an Agency Site ID "DF" or "PF", take the following actions:
 1. DO NOT tell the taxpayer their payment was offset to a TOP Debt.
 2. DO NOT provide the currently posted or a recalculated amount.
- (3) If calls are received or you have correspondence regarding an account with a TC 898 with an Agency ID of "XX" and an Agency Site ID "DF" or "PF". Review the account to determine if the account was corrected during the recovery process. If the account was corrected no other action is needed.
 - Close you case using Document Type-Internal Transcript, IDRS Cat Code IRRQ, Program Code 40000.

If the account was not corrected during the recovery process take the Following actions:

- Input a TC 766 with OTN
- RC 87 and SC 7
- Input a TC 290 for .00 with PDC 1
- Close you case using Document Type-Internal Transcript, IDRS Cat Code IRRQ, Program Code 40000.

21.4.6.5.33.2
(03-02-2021)
**Non-Filer Returns for
Economic Impact
Payments (EIPs)**

- (1) If the taxpayer's filing status is other than Married Filing Joint (MFJ) and filed a zero or \$1 return and there is no credit on the account, close your case using Document Type-Internal Transcript, IDRS Cat Code IRRQ, Program Code 40000.
- (2) If the taxpayer's filing status is other than MFJ and filed a zero or \$1 return, there is a credit on the account release the credit. Close your case using Document Type-Internal Transcript, IDRS Cat Code IRRQ, Program Code 40000.

Note: A manual refund is needed if the taxpayer owes a debt to an agency other than Child Support.

- (3) If the taxpayer is MFJ and filed a zero or \$1 return and there is a credit on the module you should determine if either spouse has a debt.
 - If a debt is owed by either spouse
 - Issue the Injured Spouse their share of the joint EIP
 - Release the remaining overpayment.

Note: A manual refund is needed if a debt is owed to an agency other than Child Support. Issue a manual refund to the Injured Spouse if a debt is owed by the other spouse to Child Support.

21.4.6.5.33.3
(10-01-2023)
**Injured Spouse
Allocation/Recovery
Rebate Credit (RRC)**

- (1) The Recovery Rebate Credit (RRC) is a refundable credit for people who didn't receive the full Economic Impact Payments (EIPs) in 2020 and/or 2021 and whose circumstances may have changed, making them eligible now for some or all the unpaid portion. As of March 18, 2021, the 2020 RRC amount will no longer be applied to past due federal income tax debts. The 2020 RRC can be reduced to pay TOP debts owed to other Federal government agencies as well as to state agencies. The IRS will not be reversing any RRC tax offset which

occurred before March 18, 2021, unless an Injured Spouse Allocation, Form 8379 is filed requesting the injured spouses share of the offset. EIP 3, issued in 2021, was not subject to offset.

- (2) When you have a Form 8379 for the original refund, which has been processed and the stimulus payment is posted, you will work the Form 8379 for both the original refund and the stimulus payment.
- (3) In most cases, the RRC is split 50 percent regardless of the amount of income, credits/children claimed or community property jurisdiction if it falls within the period of limitations for refunding. However, if only one spouse received their EIP refund and RRC is claimed on the joint return, then the spouse who did not receive their EIP refunds should be allocated the RRC up to the amount of the EIP they did not get.
 - If the primary received their personal portion, but none of the dependents. The dependents should be split evenly.
 - If the primary received the maximum of their portion issued under their SSN. Any remainder should be issued to the secondary.

Any remaining RRC should then be split equally between the spouses on the joint return.

- (4) When RRC is involved and the overpayment for 2020 or 2021 is split between the injured spouse and other spouse and either spouse has a tax debt, you must issue manual refunds to both spouses. The injured spouse's manual refund must include the appropriate BPI and be issued in either one name only or both names, depending upon how the Form 8379 was completed by the taxpayers. The other spouse's manual refund must include a BPI 0, no Blocking Series 9, and should be issued in the joint nameline. The election to have the refund issued in one name only is only a procedure for issuing the injured spouse's refund, if that is what the taxpayers chose on their Form 8379. For each spouse's allocation, you must manually transfer any overpayment amount above their allocated portion of the RRC to any tax debt(s) owed in earliest CSED order. These procedures apply to both pre-offset and post-offset injured spouse cases.

Note: A letter is not needed.

- (5) If part of the RRC payment was offset and part was refunded to the taxpayers, deduct the refunded amount from the credit amount to determine if the injured spouse is entitled to any additional refund.

Note: A letter is needed.

- (6) Once the RRC offsets to pay a TOP debt, it loses its identity as a RRC payment. Normal Interest rules apply when considering credit interest if all or part of the credit is subsequently refunded.
- (7) When working an injured spouse case after offset of the original overpayment and EIP is involved, you may need to input two adjustments. One adjustment will be for the original overpayment and the second adjustment will be for the EIP. Be sure to use the correct OTN for each adjustment. The RRC is worked using normal injured spouse procedures. For additional information refer to IRM 21.6.3.4.2.14, Recovery Rebate Credit (RRC) and IRM 21.6.3.4.2.14.1, Recovery Rebate Credit (RRC) - Adjusting the Credit.

Note: In general, most EIP offsets were reversed in one of the recoveries or a separate Injured Spouse Allocation, Form 8379 was filed.

21.4.6.5.33.4
(12-16-2022)
**Advance Child Tax
Credit (CTC)**

- (1) Advance Child Tax Credit (CTC) is an advanced payment of the Child Tax Credit for tax year 2021. Eligibility for the payment is based on the CTC shown on the tax year 2020 return (2019 if a 2020 return has not posted). Advance payments are not subject to reduction or offset.
- (2) Payments can be identified by a TC 290 .00 with CRN 272 on the tax year 2021 module. Each payment's DLN will contain a unique sequence number to identify the month for which the payment was issued. See IRM 21.6.3.4.1.24.2 Advance CTC.
- (3) Advance CTC is not subject to offset. However, if the CTC is claimed on the 2021 tax return it is subject to normal offset rules. Additionally, normal injured spouse allocation rules apply if CTC is claimed on the 2021 return.
- (4) The CTC should be split 50/50 if the taxpayer does not provide an allocation.

21.4.6.5.33.5
(10-01-2021)
**Unemployment
Compensation Exclusion
due to American Rescue
Plan Act (ARPA) of 2021**

- (1) The American Rescue Plan Act of 2021 allows the taxpayer "subject to income limitations," to exclude \$10,200 (MFJ - \$10,200 per spouse) of Unemployment Compensation from income for tax year 2020. See IRM 21.6.6.2.53, Unemployment Compensation Exclusion due to American Rescue Plan Act (ARPA) of 2021 and IRM 21.6.6.2.53.1, Account Adjustments for the UCE.
- (2) Normal offset rules apply to the Unemployment Compensation Exclusion.
- (3) Form 8379, Injured Spouse Allocation, must be reviewed to determine that all income shown on the joint return has been properly allocated and verified. The taxable amount of Unemployment Compensation shown on the joint return must be used when allocating the separate Adjusted Gross Income (AGI) for each spouse who received the benefit(s) of the exclusion.
- (4) Input any adjustment needed for the UCE before processing the Form 8379, Injured Spouse Allocation. See IRM 21.6.6.2.54.1 Account Adjustments for the UCE.

