

Instructions for Form 8379

(Rev. February 2015)

Injured Spouse Allocation



Department of the Treasury
Internal Revenue Service

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions

Future Developments

For the latest information about developments related to Form 8379 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/form8379.

Purpose of Form

Form 8379 is filed by one spouse (the injured spouse) on a jointly filed tax return when the joint overpayment was (or is expected to be) applied (offset) to a past-due obligation of the other spouse. By filing Form 8379, the injured spouse may be able to get back his or her share of the joint refund.

Are You an Injured Spouse?

You may be an injured spouse if you file a joint tax return and all or part of your portion of the overpayment was, or is expected to be, applied (offset) to your spouse's legally enforceable past-due federal tax, state income tax, state unemployment compensation debts, child or spousal support, or a federal nontax debt, such as a student loan.

Complete Part I to determine if you are an injured spouse.

Innocent Spouse Relief

Do not file Form 8379 if you are claiming innocent spouse relief. Instead, file Form 8857. Generally, both spouses are responsible for paying the full amount of tax, interest, and penalties due on your joint return. However, if you qualify for innocent spouse relief, you may be relieved of part or all of the joint liability. You may qualify for relief from the joint tax liability if any of the following apply.

- There is an understatement of tax because your spouse omitted income or claimed false deductions or credits, and you did not know or have reason to know of the understatement.
- There is an understatement of tax and you are divorced, separated, or no longer living with your spouse.
- Given all the facts and circumstances, it would not be fair to hold you liable for the tax. See Pub. 971 for more details.

When To File

File Form 8379 when you become aware that all or part of your share of an overpayment was, or is expected to be, applied (offset)

against your spouse's legally enforceable past-due obligations. You must file Form 8379 for each year you meet this condition and want your portion of any offset refunded.

A Notice of Offset for federal tax debts is issued by the IRS. A Notice of Offset for past-due state income tax, state unemployment compensation debt, child or spousal support, or federal nontax debts (such as a student loan) is issued by the U.S. Treasury Department's Bureau of the Fiscal Service.



Visit www.irs.gov/taxtopics/tc203.html and www.fiscal.treasury.gov, for more information about refund offsets and debts.

Where To File

See the chart below to determine where to file your Form 8379.

IF you file Form 8379. . .	THEN mail Form 8379. . .
with your joint return	and your joint return to the Internal Revenue Service Center for the area where you live.*
by itself after you filed your original joint return on paper	to the same Internal Revenue Service Center where you filed your original return.*
by itself after you filed your original joint return electronically	to the Internal Revenue Service Center for the area where you live.*
with an amended return (Form 1040X) or other subsequent return	to the Internal Revenue Service Center for the area where you live.*

*See your tax return instructions for the mailing address. The instructions are available at www.irs.gov. Click on "Forms and Publications."

How To File

You can file Form 8379 with your joint tax return or amended joint tax return (Form 1040X), or you can file it afterwards by itself. File Form 8379 with Form 1040X only if you are amending your original return to claim a joint refund.

If you file Form 8379 with your joint return, attach it to your return in the order of the

attachment sequence number (located in the upper right corner of the tax form). Enter "Injured Spouse" in the upper left corner of page 1 of the joint return.

If you file Form 8379 separately, please be sure to attach a copy of all Forms W-2 and W-2G for both spouses, and any Forms 1099 showing federal income tax withholding, to Form 8379. The processing of Form 8379 may be delayed if these forms are not attached, if the form is incomplete when filed, or if you attach a copy of your joint tax return.

Amending Your Tax Return

If you file an amended joint tax return (Form 1040X) to claim an additional refund and you do not want your portion of the overpayment to be applied (offset) against your spouse's legally enforceable past-due obligation(s), then you will need to complete and attach another Form 8379 to allocate the additional refund.

Time Needed To Process Form 8379

Generally, if you file Form 8379 with a joint return on paper, the time needed to process it is about 14 weeks (11 weeks if filed electronically). If you file Form 8379 by itself after a joint return has been processed, the time needed is about 8 weeks.

Specific Instructions

Part I

Line 3. Not all debts are subject to a tax refund offset. To determine if a debt is owed (other than federal tax), and whether an offset will occur, contact the Fiscal Service at 1-800-304-3107 (for TTY/TDD help, call 1-866-297-0517).



Filing Form 8379 when no past-due obligation exists will delay your refund.

Line 5a. The community property states are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.

If you live in a community property state that recognizes your marriage, special rules will apply to the calculation of your injured spouse refund. Enter the community property state(s) where, at any time during the year, you and your spouse resided and intended to establish a permanent home. For more information about the factors used to determine whether you are subject to community property laws, see Pub. 555.

In community property states, overpayments are considered joint property and are generally applied (offset) to legally owed past-due obligations of either spouse. However, there are exceptions. The IRS will use each state's rules to determine the amount, if any, that would be refundable to the injured spouse. Under state community property laws, 50% of a joint overpayment (except the earned income credit) is applied to non-federal tax debts such as child or spousal support, student loans, state unemployment compensation debts, or state income tax. However, state laws differ on the amount of a joint overpayment that can be applied to a federal tax debt. The earned income credit is allocated to each spouse based on each spouse's earned income.

For more guidance regarding the amount of an overpayment from a joint tax return that the IRS may offset against a spouse's separate tax liability, see the revenue ruling for your state, below.

IF you live in . . .	THEN use . . .
Arizona or Wisconsin	Rev. Rul. 2004-71 available at: http://www.irs.gov/irb/2004-30_IRB/ar10.html
California, Idaho, or Louisiana	Rev. Rul. 2004-72 available at: http://www.irs.gov/irb/2004-30_IRB/ar11.html
New Mexico, Nevada, or Washington	Rev. Rul. 2004-73 available at: http://www.irs.gov/irb/2004-30_IRB/ar12.html
Texas	Rev. Rul. 2004-74 available at: http://www.irs.gov/irb/2004-30_IRB/ar13.html

Line 5b. If you have a same-sex spouse whom you legally married in a jurisdiction that recognizes same-sex marriages but you now reside in a community property state that does not recognize same-sex marriages, that state's community property laws do not apply. On line 5b, you would check the "No" box. The special rules discussed above under *Line 5a* do not apply to you.

Line 9. Refundable credits include the following:

- Making work pay credit (2009 and 2010),
- Government retiree credit (2009),
- American opportunity credit (2009–2017),
- First-time homebuyer credit from Form 5405 (2008–2011),
- Credit for federal tax paid on fuels,
- Adoption credit (2010 and 2011),
- Refundable prior year minimum tax,
- Health coverage tax credit (2013 and earlier years), and

- Premium tax credit (2014 and later years).

Part III



The chart, Where Do I Find The Information To Complete Part III?, will help you find the information you need to complete Part III.

To properly determine the amount of tax owed and overpayment due to each spouse, an allocation must be made as if each spouse filed a separate tax return instead of a joint tax return. So, each spouse must allocate his or her separate wages, self-employment income and expenses (and self-employment tax), and credits such as education credits, to the spouse who would have shown the item(s) on his or her separate return.

Other items that may not clearly belong to either spouse (for example, a penalty on early withdrawal of savings from a joint bank account) would be equally divided.

If you live in a community property state, follow the instructions below to allocate your income, expenses, and credits. The IRS will apply your state's community property laws based on your allocation if you checked the "Yes" box on line 5b.

The IRS will figure the amount of any refund due the injured spouse.

If a deduction or credit would not be allowed if you had filed a separate return, use the deduction or credit shown on your joint return and allocate that amount between you and your spouse. An example of a deduction that is generally not allowed on a separate return is the student loan interest deduction. Examples of credits not allowed on a separate return are the child and dependent care credit and the American opportunity credit. A similar rule applies to income and deductions (such as taxable social security benefits and the IRA deduction) that are subject to special limits on a separate return. Use the income and deductions shown on your joint return and allocate them between you and your spouse.

Line 13a. Enter only Form W-2 income on this line. Enter the separate income that each spouse earned.

Line 13b. Identify the type and amount. Allocate joint income, such as interest earned on a joint bank account, as you determine. Be sure to allocate all income shown on the joint return.

Line 14. Allocate each adjustment to the spouse who would have claimed it if a separate return had been filed. For example, allocate the IRA deduction to the spouse who owns the IRA and allocate the student loan interest deduction to the spouse who is legally obligated to make the interest payments. If there are any adjustments that do not belong exclusively to one spouse, allocate them as you determine.

Line 15. If you used the standard deduction on your joint tax return, enter in both columns (b) and (c) one-half of the basic standard

deduction shown in column (a). Also allocate any real estate taxes, new motor vehicle taxes, and any disaster loss as you determine, if applicable.

However, if you checked the boxes for age or blindness at the top of page 2 of Form 1040 or 1040A, enter your total standard deduction on line 15, column (a). Allocate your basic standard deduction (including any real estate taxes, new motor vehicle taxes, or disaster loss) as explained earlier. Your basic standard deduction is as follows: 2010—\$11,400; 2011—\$11,600; 2012—\$11,900; 2013—\$12,200; 2014—\$12,400; 2015—\$12,600.

If someone could claim you or your spouse as a dependent, your basic standard deduction is the amount on line 4 (for 2010) or line 3a (for 2011, 2012, 2013, and 2014) of the standard deduction worksheet, found in the Form 1040 or Form 1040A instructions. Then use the following worksheet to allocate the additional standard deduction (the difference between the total standard deduction and the basic standard deduction).

1. Enter here the total number of boxes checked for age or blindness **for yourself** at the top of page 2 of Form 1040 or 1040A _____
2. Enter the additional standard deduction for the year as shown below _____

2010	\$1,100	2013	\$1,200
2011	\$1,150	2014	\$1,200
2012	\$1,150	2015	\$1,250
3. Multiply line 2 by line 1. Include this amount on line 15, column (b) _____
4. Enter here the total number of boxes checked for age or blindness **for your spouse** at the top of page 2 of Form 1040 or 1040A _____
5. Multiply line 4 by line 2. Include this amount on line 15, column (c) _____

If you itemize your deductions, enter each spouse's separate deductions, such as employee business expenses. Allocate other deductions as you determine.

Line 16. Allocate the exemptions claimed on the joint return to the spouse who would have claimed them if separate returns had been filed. Enter whole numbers only. For example, you cannot allocate 3 exemptions by giving 1.5 exemptions to each spouse.

Line 17. Allocate any child tax credit, and dependent care credit, and additional child tax credit to the spouse who was allocated the qualifying child's exemption. Do not include any earned income credit here; the IRS will allocate it based on each spouse's income. Allocate business credits

based on each spouse's interest in the business. Allocate any other credits as you determine.

Line 18. Allocate self-employment tax to the spouse who earned the self-employment income. Allocate the excess advance premium tax credit repayment and the individual responsibility payment for health care in any way you choose. Allocate the Net Investment Income Tax (Form 8960) consistently with the allocation used for net investment income on Line 13b.

Line 19. Enter federal income tax withheld from each spouse's income as shown on

Forms W-2, W-2G, and 1099. Be sure to attach copies of these forms to your tax return or to Form 8379 if you are filing it by itself. Also include on this line any excess social security or tier 1 Railroad Retirement (RRTA) tax withheld and any Additional Medicare Tax withholding from Form 8959, line 24, attributed to each spouse.

Line 20. You can allocate joint estimated tax payments in any way you choose as long as both you and your spouse agree. If you cannot agree, the estimated tax payments will be allocated according to the following formula:

$$\frac{\text{Each spouse's separate tax liability}}{\text{Both separate tax liabilities}} \times \text{Estimated tax payments}$$

Allocate each spouse's separate estimated tax payments to the spouse who made them.

Where Do I Find The Information To Complete Part III?	
Line on Form 8379	Where To Find the Information on Your Tax Return
13a. Income reported on Form W-2	This is the income shown on Form W-2 that you reported on line 7 of Form 1040 or 1040A or on line 1 of Form 1040EZ.
13b. All other income	This is the income you reported in the "Income" section of your tax return (other than the income you entered on line 13a above).
14. Adjustments to income	On Forms 1040 and 1040A, these are the amounts you entered on page 1 in the "Adjusted Gross Income" section. There are no adjustments to income on Form 1040EZ.
15. Standard deduction or itemized deductions	On Form 1040, this is the amount you entered on line 40. On Form 1040A, this is the amount you entered on line 24. On Form 1040EZ, this is the amount you entered on line E of the worksheet on page 2. If you did not fill out the worksheet, the standard deduction is shown under the worksheet.
16. Number of exemptions	On Form 1040 or 1040A, this is the number you entered in box 6d. On Form 1040EZ, this is the number of unchecked boxes on line 5.
17. Credits	On Form 1040, these are the tax credits (except the earned income credit) in the "Tax and Credits" and "Payments" sections on page 2. On Form 1040A, these are the tax credits (except the earned income credit) in the "Tax, credits, and payments" section on page 2. Do not enter the earned income credit from Form 1040EZ on this line.
18. Other taxes	On Form 1040, these are the excess advance premium tax credit repayment you entered on line 46 and the taxes in the "Other Taxes" section on page 2. On Form 1040A, these are the excess advance premium tax credit repayment you entered on line 29 and the individual responsibility payment for health care you entered on line 38. On Form 1040EZ, this is the individual responsibility payment for health care you entered on line 11.
19. Federal income tax withheld	This is the amount you entered on the "Federal income tax withheld" line (on page 2 of Forms 1040 and 1040A; on page 1 of Form 1040EZ). Also include any excess social security and tier 1 RRTA tax withheld.
20. Payments	These are on the lines of your return where you entered estimated tax payments, the amount applied from your previous year's tax return, and amounts you paid with an extension to file (Form 2350 or Form 4868).

Daytime phone number. Providing your daytime phone number may help speed the processing of Form 8379. We may have questions about items on it. If you answer our questions over the phone, we may be able to continue processing Form 8379 without mailing you a letter.

How To Avoid Common Mistakes

Mistakes may delay your refund or result in notices being sent to you.

- If you file Form 8379 separately, do not include a copy of your joint tax return. This will prevent delays in processing your

allocation. Make sure to enclose copies of all Forms W-2 and W-2G for both spouses, and any Forms 1099 showing income tax withheld.

- If you file Form 8379 with your joint tax return or amended joint tax return, enter "Injured Spouse" in the upper left corner of page 1 of your joint return.
- Any dependency exemptions must be entered in whole numbers. Do not use fractions.
- Items of income, expenses, credits and deductions must be allocated to the spouse who would have entered the item on his or her separate return.

- Make sure the debt is subject to offset (for example, a legally enforceable past-due federal tax, state income tax, child or spousal support, state unemployment compensation debts, or other federal nontax debt, such as a student loan).

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.

Generally, tax returns and return information are confidential, as required by Code section 6103.

The average time and expense required to complete and file this form will vary depending on individual circumstances. For

the estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.
