

## How Do I Make an Injured Spouse Claim?

You can make an Injured Spouse Claim by filling out **IRS Form 8379**.

If you have already filed your joint tax return:

- Sign the back page of Form 8379 and send it to the IRS. Mail the form to the Internal Revenue Service Center for the state where you lived when you filed the return.

If you have not filed your joint tax return:

- Attach Form 8379 behind your return and enter "Injured Spouse" in the upper left corner of the return.
- Attach copies of all W-2 and 1099-R forms of both spouses showing the amount of income tax withheld to Form 8379.
- You can get Form 8379 on the Internet at [www.irs.gov](http://www.irs.gov).

*It can take the IRS up to eight weeks to process an Injured Spouse Claim.*

## When Should I Make an Injured Spouse Claim?

You should make an Injured Spouse Claim when you file your joint tax return. You can also file an Injured Spouse Claim after the IRS keeps your tax refund.

### Office Hours:

Monday - Friday 8:30am to 5:00pm

1431 Elizabeth Avenue  
Charlotte, North Carolina 28204  
[www.lssp.org](http://www.lssp.org)

Telephone: 704.971.2622  
Fax: 704.376.8627  
Email: [info@lssp.org](mailto:info@lssp.org)

### Client Help Lines

Mecklenburg County: 704.376.1600  
Outside Mecklenburg: 800.438.1254  
Spanish Language Line: 800.247.1931

Legal Services of Southern Piedmont, Inc. is an equal opportunity agency providing services to clients without regard to race, sex, handicap, age, national origin or religion.

Legal Services of Southern Piedmont is funded in part by:

Internal Revenue Service  
United States Department of Treasury



Western North Carolina  
Low Income Taxpayer Clinic

# What is an Injured Spouse Claim?



## **Injured Spouse Claims**

Do any of these apply to you?

- Did you file a joint tax return with your spouse?
- Did you expect a tax refund?
- Did you receive notice that the IRS would keep your refund, OR has your tax refund already been kept?
- Was the tax refund kept to pay your spouse's past-due tax, child support, or federal debt, such as a student loan?

*If you answered "yes" to all four questions, you might be able to file an Injured Spouse Claim.*

### **What is an Injured Spouse Claim?**

An Injured Spouse Claim can help you get back your part of the tax refund that was captured to pay your spouse's debt.

An Injured Spouse Claim will not help you get relief from a joint tax debt. A joint tax debt is one that both you and your spouse owe.

When you file a joint income tax return, the U.S. Treasury Department's Financial Management Service (FMS) can apply all or part of the joint refund to one spouse's past-due tax, child support, or federal non-tax debt, such as a student loan.

If this happens, FMS will send you a notice. The notice will tell you the name, address, and telephone number of the agency with the debt.

If this happens, you should consider filing an Injured Spouse Claim.

### **How Do I Qualify For An Injured Spouse Claim?**

You qualify for an Injured Spouse Claim if you meet all three of the following conditions:

#### **1. You are not the person required to pay the past-due amount, your spouse is.**

This means that the tax debt occurred before you got married OR your spouse is the only one who owes the debt.

Examples include past-due child support, defaulted student loans, foreclosures on federal loans, un-paid state income taxes and other federal debts.

Example: Martha is married to Dan. Dan is required to pay child support for a child that he had with Lisa. Dan is behind on his child support payments. Martha is not required to pay Dan's past-due child support.

#### **2. You earned income that was reported on the joint tax return.**

This means some or all of the income on the tax return belongs to you. Income includes wages and self-employment.

Example: Martha and Dan filed a joint tax return. Martha made \$5,000 as a cashier. Dan made \$3,000 as a janitor. Martha reported \$5,000 of income on the joint return.

#### **3. You made and reported payments or withholding on the joint return.**

Payments include federal income tax withheld from your wages, estimated tax payments, or refundable credits, such as the Earned Income Tax Credit or Additional Child Tax Credit.

Example: Martha and Dan filed a joint tax return. Martha made \$5,000 as a cashier. Martha's W-2 shows income tax withheld of \$300. Martha reported the \$300 on her tax return. Martha made and reported payments.