

## Did you file or did you plan to file a joint return with your spouse?

- Did you expect a tax refund?
- Did you receive a notice that the IRS would keep your tax refund, or has kept your tax refund already?
- 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 of these questions, you might be able to file an Injured Spouse Claim.

### What is an Injured Spouse Claim?

Injured Spouse Claims can help you get back your part of the tax refund that was withheld 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. If you need relief from a joint tax debt, contact the Low-Income Taxpayer Clinic or a tax professional about filing for Innocent Spouse Relief (IRS Form 8857).

When you file a joint income tax return, the United States Treasury Department's Financial Management Services (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

### How Do I Qualify For an Injured Spouse Claim?

You qualify for an Injured spouse claim if you meet all of the following three conditions:

1- You are not required to pay the past due amount. This means that the tax debt must have occurred before you got married or your

Examples include past child support, defaulted student loans, foreclosures on federal loans, unpaid state income taxes and other federal debts.

**Example:** Mary is married to Bob. Bob is required to pay child support on a child that he had with Lisa. Bob is behind on his child support payments. Mary is not required to pay Bob's past due child support.

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

**Example:** Mary and Bob filed a joint tax return. Mary made \$5000 as a cashier, Bob made \$3000 as a mechanic. Mary reported \$5000 of Income on the joint return.

3- You made and reported payments 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 the Additional Child Tax Credit.

**Example:** Mary and Bob filed a joint return. Mary made \$5000 as a cashier. Mary's W-2 shows income tax withheld of \$300. Mary reported \$300 on the tax return. Mary made and reported payments

### How Do I Request an Innocent Spouse Claim?

You can request an Innocent spouse claim by filling out IRS form 8379. If you have not filed your joint return, attach Form 8379 behind your return and write "Injured Spouse" in the upper left corner of the return.

If you have *already* filed your joint tax return, sign the back page of Form 8379 and send to the IRS. Mail the form to the Internal Revenue Center where you filed your joint return.

If you lived in Florida when you filed your joint return, you should mail the form 8379 to: IRS, Atlanta, GA 39901

Please include copies of all W-2 and 1099 forms of both spouses showing income tax withheld. Attach the copies to form 8379.

You can get IRS Form 8379 on the internet at [www.irs.gov](http://www.irs.gov) or by calling the IRS forms line at 1-800-TAX-FORM (1-800-829-3676). Processing of an Injured spouse claim can take up to 8 weeks.

### When Should I Request An Injured Spouse Claim?

If you received a letter from an agency telling you that your tax refund would be withheld to pay your spouse's debt, you should request an Injured spouse claim by attaching IRS form 8379 to your joint tax return when you file it. If you did not receive a letter telling you that your refund would be withheld, but you filed your joint return and then received a letter stating that it was; you should file the form as soon as you are notified that your refund will be kept.

### What If I Don't Agree With The Amount Of My Injured Spouse Claim?

You should write to the IRS and ask for a copy of the Injured Spouse Worksheet.

## About FloridaLawHelp.org

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IRS - (800) 829 -1040  
Taxpayer Advocate Office  
1-877-777-4778



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**Was Your Tax  
Refund Withheld to  
Pay Your Spouse's  
Debt?**

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