

## ***How Do I Request An Injured Spouse Claim?***

You can request an injured spouse claim by filling out **IRS Form 8379**.

- 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.
- 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 Service Center where you lived when you filed the joint return.
- If you lived in Rhode Island when you filed the joint return, you should mail Form 8379 to the Internal Revenue Service Center, Andover, MA 05501-0002
- Please include copies of all W-2 and 1099-R forms of both spouses showing income tax withheld attach the copies to Form 8379.
- You can get Form 8379 on the internet at [www.irs.gov](http://www.irs.gov) or by calling Rhode Island Legal Services. .

**It can take the IRS up to eight weeks to process the injured spouse claim.**

## ***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 when you file your joint tax return. You can attach Form 8379 to your tax return and mail it to the IRS. You can also file Form 8379 electronically.

If you did not receive a letter telling you that your tax refund would be withheld, you should file for an injured spouse claim as soon as the FMS keeps your tax refund.

### ***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 Claim Worksheet or call Rhode Island Legal Services.

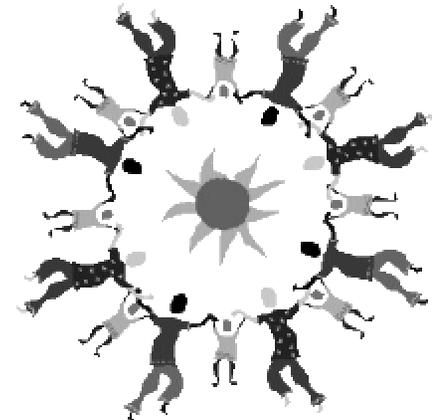
### **How to Get Help**

To find out if we can help, call toll-free  
**1-800-662-5034**

**NOTE: This information cannot take the place of advice from a lawyer. Each case is different and needs individual legal advice. You should contact a lawyer if you need representation on a tax matter or if you have questions.**

## ***Injured Spouse Claim***

***“Was Your Tax Refund Withheld to Pay Your Spouse’s Debt?”***



**Rhode Island Legal Services, Inc.**  
Low Income Taxpayer Clinic  
56 Pine Street, Suite 400  
Providence, RI 02903  
(401) 274-2652  
or toll free  
1-800-662-5034

*The Rhode Island Legal Services Low Income Taxpayer Clinic is funded by a grant from the IRS.*

## **Introduction**

- ✓ Did you file or did you plan to 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?***

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 Rhode Island Legal Services Low Income Taxpayer Clinic or a lawyer about filing

for Innocent Spouse Relief (Form 8857).

When you file a joint income tax return, the United States 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.

### ***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 required to pay the past-due amount.** 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: 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 some or all of the income on the tax return belongs to you. Income includes wages and self-employment.

Example: Mary and Bob filed a joint tax return. Mary made \$5,000 as a cashier. Bob made \$3,000 as a mechanic. Mary reported \$5,000 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 additional child tax credit.

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

