

Divorce and Tax Issues: Evaluating Key Opportunities and Risks

Navigating Tax Consequences for Support, Assets and Liabilities Division, Deductions, Credits, and More

WEDNESDAY, JANUARY 16, 2013

1pm Eastern | 12pm Central | 11am Mountain | 10am Pacific

Today's faculty features:

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Injured Spouse Allocation

▶ Information about Form 8379 and its separate instructions is at www.irs.gov/form8379.

Part I Should You File This Form? You must complete this part.

- 1 Enter the tax year for which you are filing this form. ▶ _____ Answer the following questions for that year.

- 2 Did you (or will you) file a joint return?
 - Yes.** Go to line 3.
 - No. Stop here.** Do not file this form. You are not an injured spouse.

- 3 Did (or will) the IRS use the joint overpayment to pay any of the following legally enforceable past-due debt(s) owed only by your spouse? (see instructions)
 - Federal tax • State income tax • State unemployment compensation • Child support • Spousal support
 - Federal nontax debt (such as a student loan)
 - Yes.** Go to line 4.
 - No. Stop here.** Do not file this form. You are not an injured spouse.

Note. If the past-due amount is for a joint federal tax, you may qualify for innocent spouse relief for the year to which the overpayment was applied. See *Innocent Spouse Relief*, in the instructions for more information.

- 4 Are you legally obligated to pay this past-due amount?
 - Yes. Stop here.** Do not file this form. You are not an injured spouse.
 - Note.** If the past-due amount is for a joint federal tax, you may qualify for innocent spouse relief for the year to which the overpayment was applied. See *Innocent Spouse Relief*, in the instructions for more information.
 - No.** Go to line 5.

- 5 Were you a resident of a community property state at any time during the tax year entered on line 1? (see instructions)
 - Yes.** Enter the name(s) of the community property state(s) _____ .
 Skip lines 6 through 9 and **go to Part II** and complete the rest of this form.
 - No.** Go to line 6.

- 6 Did you make and report payments, such as federal income tax withholding or estimated tax payments?
 - Yes.** Skip lines 7 through 9 and **go to Part II** and complete the rest of this form.
 - No.** Go to line 7.

- 7 Did you have earned income, such as wages, salaries, or self-employment income?
 - Yes.** Go to line 8.
 - No.** Skip line 8 and go to line 9.

- 8 Did (or will) you claim the earned income credit or additional child tax credit?
 - Yes.** Skip line 9 and **go to Part II** and complete the rest of this form.
 - No.** Go to line 9.

- 9 Did (or will) you claim a refundable tax credit (see instructions)?
 - Yes. Go to Part II** and complete the rest of this form.
 - No. Stop here.** Do not file this form. You are not an injured spouse.

Part II Information About the Joint Tax Return for Which This Form Is Filed

- 10 Enter the following information exactly as it is shown on the tax return for which you are filing this form.
 The spouse's name and social security number shown first on that tax return must also be shown first below.

First name, initial, and last name shown first on the return	Social security number shown first	If Injured Spouse, check here ▶ <input type="checkbox"/>
First name, initial, and last name shown second on the return	Social security number shown second	If Injured Spouse, check here ▶ <input type="checkbox"/>

- 11 Check this box only if you are divorced or legally separated from the spouse with whom you filed the joint return and you want your refund issued in your name only

- 12 Do you want any injured spouse refund mailed to an address different from the one on your joint return? **Yes** **No**
 If "Yes," enter the address. _____

Number and street City, town, or post office, state, and ZIP code

Part III Allocation Between Spouses of Items on the Joint Tax Return (see instructions)

Allocated Items	(a) Amount shown on joint return	(b) Allocated to injured spouse	(c) Allocated to other spouse
13 Income: a. Income reported on Form W-2			
b. All other income			
14 Adjustments to income			
15 Standard deduction or Itemized deductions			
16 Number of exemptions			
17 Credits (do not include any earned income credit)			
18 Other taxes			
19 Federal income tax withheld			
20 Payments			

Part IV Signature. Complete this part only if you are filing Form 8379 by itself and not with your tax return.

Under penalties of perjury, I declare that I have examined this form and any accompanying schedules or statements and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Paid Preparer Use Only	Keep a copy of this form for your records	Injured spouse's signature	Date	Phone number (optional)
		Print/Type preparer's name	Preparer's signature	Date
		Firm's name ▶	Firm's EIN ▶	Check <input type="checkbox"/> if self-employed
		Firm's Address ▶	Phone no.	PTIN

Request for Innocent Spouse Relief

▶ See separate instructions.

Important things you should know

- **Do not file this form with your tax return.** See *Where To File* in the instructions.
- Answer all the questions on this form that apply, attach any necessary documentation, and sign on page 4. Do not delay filing this form because of missing documentation. See instructions.
- By law, the IRS must contact the person who was your spouse for the years you want relief. There are no exceptions, even for victims of spousal abuse or domestic violence. Your personal information (such as your current name, address, and employer) will be protected. However, if you petition the Tax Court, your personal information may be released, unless you ask the Tax Court to withhold it. See instructions for details.
- If you need help, see *How To Get Help* in the instructions.

Part I Should you file this form? You must complete this part for each tax year.

	Tax Year 1		Tax Year 2		Tax Year 3*	
1 Enter each tax year you want relief. It is important to enter the correct year. For example, if the IRS used your 2009 income tax refund to pay a 2007 tax amount you jointly owed, enter tax year 2007, not tax year 2009 ▶						
Caution. The IRS generally cannot collect the amount you owe until your request for each year is resolved. However, the time the IRS has to collect is extended. See <i>Collection Statute of Limitations</i> on page 3 of the instructions.						
2 Check the box for each year you would like a refund if you qualify for relief. You may be required to provide proof of payment. See instructions ▶	<input type="checkbox"/>					
3 Did the IRS use your share of the joint refund to pay any of the following past-due debts of your spouse: federal tax, state income tax, child support, spousal support, or federal non-tax debt such as a student loan? • If "Yes," stop here; do not file this form for that tax year. Instead, file Form 8379, Injured Spouse Allocation. See instructions. • If "No," go to line 4 ▶	Yes	No	Yes	No	Yes	No
4 Was a return claiming married filing jointly status filed for the tax year listed on line 1? See instructions. • If "Yes," skip line 5 and go to line 6. • If "No," go to line 5 ▶	<input type="checkbox"/>					
5 If a joint return for that tax year was not filed, were you a resident of Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, or Wisconsin? • If "Yes," see <i>Community Property Laws</i> on page 2 of the instructions. • If "No" on both lines 4 and 5, stop here. Do not file this form for that tax year ▶	<input type="checkbox"/>					

*If you want relief for more than 3 years, fill out an additional form.

Part II Tell us about yourself

6 Your current name (see instructions)	Your social security number	
Your current mailing address (number and street).	Apt. no.	County
City, town or post office, state, and ZIP code. If a foreign address, see instructions.	Best daytime phone number	

Part III Tell us about you and your spouse for the tax years you want relief

7 Who was your spouse for the tax years you want relief? File a separate Form 8857 for tax years involving different spouses or former spouses.

That person's current name	Social security number (if known)
Current home address (number and street) (if known). If a P.O. box, see instructions.	Apt. no.
City, town or post office, state, and ZIP code. If a foreign address, see instructions.	Best daytime phone number

Note. If you need more room to write your answer for any question, attach more pages. Be sure to write your name and social security number on the top of all pages you attach.

Part III (Continued)

8 What is the current marital status between you and the person on line 7?

Married and still living together

Married and living apart since _____
MM DD YYYY

Widowed since _____
MM DD YYYY

Attach a photocopy of the death certificate and will (if one exists).

Legally separated since _____
MM DD YYYY

Attach a photocopy of your entire separation agreement.

Divorced since _____
MM DD YYYY

Attach a photocopy of your entire divorce decree.

Note. A divorce decree stating that your former spouse must pay all taxes does not necessarily mean you qualify for relief.

9 What was the highest level of education you had completed when the return(s) were filed? If the answers are **not** the same for all tax years, explain.

High school diploma, equivalent, or less

Some college

College degree or higher. List any degrees you have ► _____

List any college-level business or tax-related courses you completed ► _____

Explain ► _____

10 Were you a victim of spousal abuse or domestic violence during any of the tax years you want relief? If the answers are **not** the same for all tax years, explain.

Yes. **Attach a statement** to explain the situation and **when** it started. Provide photocopies of any documentation, such as police reports, a restraining order, a doctor's report or letter, or a notarized statement from someone who was aware of the situation.

No.

11 Did you (or the person on line 7) incur any large expenses, such as trips, home improvements, or private schooling, or make any large purchases, such as automobiles, appliances, or jewelry, during any of the years you want relief or any later years?

Yes. **Attach a statement** describing (a) the types and amounts of the expenses and purchases and (b) the years they were incurred or made.

No.

12 Did you sign the return(s)? If the answers are **not** the same for all tax years, explain.

Yes. If you were forced to sign under duress (threat of harm or other form of coercion), check here ► . See instructions.

No. Your signature was forged. See instructions.

13 When any of the returns were signed, did you have a mental or physical health problem or do you have a mental or physical health problem now? If the answers are **not** the same for all tax years, explain.

Yes. **Attach a statement** to explain the problem and **when** it started. Provide photocopies of any documentation, such as medical bills or a doctor's report or letter.

No.

Part IV Tell us how you were involved with finances and preparing returns for those tax years

14 How were you involved with preparing the returns? Check all that apply and explain, if necessary. If the answers are **not** the same for all tax years, explain.

You filled out or helped fill out the returns.

You gathered receipts and cancelled checks.

You gave tax documents (such as Forms W-2, 1099, etc.) to the person who prepared the returns.

You reviewed the returns before they were signed.

You did not review the returns before they were signed. Explain below.

You were not involved in preparing the returns.

Other ► _____

Explain how you were involved ► _____

Note. If you need more room to write your answer for any question, attach more pages. Be sure to write your name and social security number on the top of all pages you attach.

Part IV (Continued)

15 When the returns were signed, what did you know about any incorrect or missing information? Check all that apply and explain, if necessary. If the answers are **not** the same for all tax years, explain.

- You knew something was incorrect or missing, but you said nothing.
- You knew something was incorrect or missing and asked about it.
- You did not know anything was incorrect or missing.

Explain ► _____

16 When any of the returns were signed, what did you know about the income of the person on line 7? Check all that apply and explain, if necessary. If the answers are **not** the same for all tax years, explain.

- You knew that person had income.

List each type of income on a separate line. (Examples are wages, social security, gambling winnings, or self-employment business income.) Enter each tax year and the amount of income for each type you listed. If you do not know any details, enter "I don't know."

Type of income	Who paid it to that person	Tax Year 1	Tax Year 2	Tax Year 3
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$

- You knew that person was self-employed and you helped with the books and records.
- You knew that person was self-employed and you did not help with the books and records.
- You knew that person had no income.
- You did not know if that person had income.

Explain ► _____

17 When the returns were signed, did you know any amount was owed to the IRS for those tax years? If the answers are **not** the same for all tax years, explain.

- Yes. Explain when and how you thought the amount of tax reported on the return would be paid ► _____

- No.

Explain ► _____

18 When any of the returns were signed, were you having financial problems (for example, bankruptcy or bills you could not pay)? If the answers are **not** the same for all tax years, explain.

- Yes. Explain ► _____

- No.

- Did not know.

Explain ► _____

19 For the years you want relief, how were you involved in the household finances? Check all that apply. If the answers are **not** the same for all tax years, explain.

- You knew the person on line 7 had separate accounts.
- You had joint accounts but you had limited use of them or did not use them. Explain below.
- You used joint accounts. You made deposits, paid bills, balanced the checkbook, or reviewed the monthly bank statements.
- You made decisions about how money was spent. For example, you paid bills or made decisions about household purchases.
- You were not involved in handling money for the household.
- Other ► _____

Explain anything else you want to tell us about your household finances ► _____

20 Has the person on line 7 ever transferred assets (money or property) to you? (Property includes real estate, stocks, bonds, or other property that you own.) See instructions.

- Yes. List the assets, the dates they were transferred, and their fair market values on the dates transferred. Explain why the assets were transferred ► _____

- No.

Part V Tell us about your current financial situation

21 Tell us the number of people currently in your household. Adults _____ Children _____

22 Tell us your current average monthly income and expenses for your entire household. If family or friends are helping to support you, include the amount of support as gifts under **Monthly income**. Under **Monthly expenses**, enter all expenses, including expenses paid with income from gifts.

Monthly income	Amount	Monthly expenses	Amount
Gifts		Federal, state, and local taxes deducted from your paycheck	
Wages (Gross pay)		Rent or mortgage	
Pensions		Utilities	
Unemployment		Telephone	
Social security		Food	
Government assistance, such as housing, food stamps, grants		Car expenses, payments, insurance, etc. Medical expenses, including medical insurance	
Alimony		Life insurance	
Child support		Clothing	
Self-employment business income		Child care	
Rental income		Public transportation	
Interest and dividends		Other expenses, such as real estate taxes, child support, etc.	
Other income, such as disability payments, gambling winnings, etc.		List the type below:	
List the type below:		Type _____	
Type _____		Type _____	
Type _____		Type _____	
Total ▶		Total ▶	

23 Tell us about your assets. Your assets are your money and property. Property includes real estate, motor vehicles, stocks, bonds, and other property that you own. Tell us the amount of cash you have on hand and in your bank accounts. Also give a description of each item of property, the fair market value of each item, and the balance of any outstanding loans you used to acquire each item. Do not list any money or property you listed on line 20. If you need more room, attach more pages. Write your name and social security number on the top of all pages you attach.

24 Please provide any other information you want us to consider in determining whether it would be unfair to hold you liable for the tax. If you need more room, attach more pages. Write your name and social security number on the top of all pages you attach.

Caution
By signing this form, you understand that, by law, we must contact the person on line 7. See instructions for details.

Sign Here

Under penalties of perjury, I declare that I have examined this form and any accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Keep a copy for your records.	<div style="display: flex; justify-content: space-between;"> <div style="border-bottom: 1px solid black; width: 80%;"> Your signature </div> <div style="border-bottom: 1px solid black; width: 15%;">Date</div> </div>
Paid Preparer's Use Only	<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">Preparer's signature </div> <div style="width: 15%;">Date</div> <div style="width: 20%;">Check if self-employed <input type="checkbox"/></div> <div style="width: 20%;">Preparer's SSN or PTIN</div> </div>
	<div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Firm's name (or yours if self-employed), address, and ZIP code </div> <div style="width: 40%;">EIN</div> </div>
	<div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"></div> <div style="width: 40%;">Phone no.</div> </div>