



- General Instructions
 - What's New
 - Future Developments
 - Purpose of Form
 - Are You an Injured Spouse?
 - Innocent Spouse Relief
 - When To File
 - How To File
 - Where To File
 - Amending Your Tax Return
 - Time Needed To Process Form 8379
- Specific Instructions
 - Part I
 - Line 3.
 - Line 5a.
 - Line 5b.
 - Line 9.
 - Part II
 - Line 12.
 - Part III
 - Line 13a.
 - Line 13b.
 - Line 14.
 - Line 15.
 - If you used the standard deduction.
 - If you itemize your deductions.
 - Line 16.
 - Line 17.
 - Line 18.
 - Line 19.
 - Line 20.
 - Daytime phone number.
 - How To Avoid Common Mistakes
- Instructions for Form 8379 - Notices
 - Paperwork Reduction Act Notice.

Instructions for Form 8379 (11/2019)

Injured Spouse Allocation (For use with the November 2016 revision of Form 8379)

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

Revised: 11/2019

General Instructions

What's New

For 2019, the qualified business income (QBI) deduction is figured on Form 8995 or 8995-A and reported on Form 1040 or 1040-SR, line 10. If both spouses have QBI, the IRS will generally allocate the QBI deduction as a percentage of each spouse's QBI.

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 [IRS.gov/Form8379](https://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 support, or a federal nontax debt, such as a student loan.

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 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 [IRS.gov/TaxTopics/tc203](https://www.irs.gov/TaxTopics/tc203) and [Fiscal.Treasury.gov](https://www.fiscal.treasury.gov) for more information about refund offsets and debts.

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

Innocent Spouse Relief

Don't 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 didn't 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 wouldn't 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.

You must file Form 8379 within 3 years from the due date of the original return (including extensions) or within 2 years from the date you paid the tax that was later offset, whichever is later. Certain circumstances described in section 6511 may extend this period.

How To File

You can file Form 8379 with your joint tax return or amended joint tax return (Form 1040-X), or you can file it afterwards by itself. File Form 8379 with Form 1040-X 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 previously filed joint tax return.

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 1040-X) or other subsequent return	to the Internal Revenue Service Center for the area where you live.*
* For Internal Revenue Service Center mailing addresses, see your tax return instructions or visit Returns-With-Or-Without-a-Payment">IRS.gov/Filing/Where-To-File-Paper-Tax>Returns-With-Or-Without-a-Payment .	

Taxpayer Assistance Centers are not Internal Revenue Service Centers. You can't make an appointment at an Internal Revenue Service Center to file Form 8379.

Amending Your Tax Return

If you file an amended joint tax return (Form 1040-X) to claim an additional refund and you don't 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 Bureau of the Fiscal Service at 800-304-3107 (for TTY/TDD help, call 866-297-0517).

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

Line 5a. Community property states include 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 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 next.

IF you live in. . .	THEN use. . .
Arizona or Wisconsin	Rev. Rul. 2004-71, available at: IRS.gov/IRB/2004-30_IRB#RR-2004-71 .
California, Idaho, or Louisiana	Rev. Rul. 2004-72, available at: IRS.gov/IRB/2004-30_IRB#RR-2004-72 .
Nevada, New Mexico, or Washington	Rev. Rul. 2004-73, available at: IRS.gov/IRB/2004-30_IRB#RR-2004-73 .
Texas	Rev. Rul. 2004-74, available at: IRS.gov/IRB/2004-30_IRB#RR-2004-74 .

Line 5b. Check the "No" box on line 5b if you meet **all** of the following conditions.

- You have a same-sex spouse whom you legally married in a jurisdiction that recognizes same-sex marriages.
- You resided during the tax year in a community property state that did **not** recognize same-sex marriages during the tax year.
- The state's community property laws did **not** apply to you during the tax year.

The special rules discussed earlier under Line 5a. don't 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 and later years).
- 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.
- Premium tax credit (2014 and later years).

Part II

Line 12. If you checked the "Yes" box, enter the address and read the following instructions.

- If the address change is **permanent**, submit Form 8822, Change of Address, with Form 8379. If your last return was a joint return, your spouse must also sign Form 8822 unless you, the injured spouse, check the box on line 1 of Form 8822 indicating that you are establishing a separate residence.
- If the address change is **temporary**, don't submit Form 8822. However, the temporary address change may delay your injured spouse refund.

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 had you 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. In column (a), include any income shown on your joint return from Form(s) W-2. This income will generally be reported on the following lines.

- Form 1040EZ, line 1.
- Form 1040A, line 7.
- Form 1040 (before 2018), line 7.
- Form 1040 (2018), line 1.
- Form 1040 or 1040-SR (2019), line 1.

However, do not include any income shown on these lines that was not from Form(s) W-2.

In columns (b) and (c), enter only Form W-2 income on this line. Enter the separate income that each spouse earned.

Line 13b. In column (a), include all other income shown on your joint return. Identify the type and amount. This income will generally be reported on the following lines.

- Form 1040EZ, lines 1-6.
- Form 1040A, lines 7-15.

- Form 1040 (before 2018), lines 7-22.
- Form 1040 (2018), lines 1-6 (includes Schedule 1, lines 10-22).
- Form 1040 or 1040-SR (2019), lines 1-7b (includes Schedule 1, lines 1-9).

However, do not include any income shown on these lines from Form(s) W-2.

In columns (b) and (c), 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. In column (a), include any adjustments shown on your joint return. These adjustments will be reported on the following lines.

- Form 1040EZ: No adjustments are shown on Form 1040EZ. Enter -0-.
- Form 1040A, lines 16-21.
- Form 1040 (before 2018), lines 23-37.
- Form 1040 (2018): Schedule 1, lines 23-36.
- Form 1040 or 1040-SR (2019), line 8a (includes Schedule 1, lines 10-22).

In columns (b) and (c), 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 don't belong exclusively to one spouse, allocate them as you determine.

Line 15. In column (a), enter the standard deduction (or itemized deductions) shown on your joint return. These amounts will be reported on the following lines.

- Form 1040EZ: Enter the amount from line E of the worksheet on page 2. If you didn't fill out the worksheet, include the standard deduction shown under the worksheet.
- Form 1040A, line 24.
- Form 1040 (before 2018), line 40.
- Form 1040 (2018), line 8.
- Form 1040 or 1040-SR (2019), line 9.

If you used the standard deduction.

In columns (b) and (c), include one-half of your basic standard deduction.

Your basic standard deduction is generally as follows:

2015—\$12,600; 2016—\$12,600; 2017—\$12,700; 2018—\$24,000; 2019—\$24,400.

However, if someone could claim you or your spouse as a dependent, your basic standard deduction is the amount on line 4c of the standard deduction worksheet, found in the instructions for Form 1040A, 1040 or 1040-SR, or the amount on line E of the worksheet on page 2 of Form 1040EZ. If you checked any boxes for age or blindness on your joint return, 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 (the injured spouse)** on your joint tax return
2. Enter the additional standard deduction for the year as shown below

2015	\$1,250	2018	\$1,300
2016	\$1,250	2019	\$1,300
2017	\$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** on your joint tax return
5. Multiply line 4 by line 2. Include this amount on line 15, column (c)

If you itemize your deductions.

In columns (b) and (c), include each spouse's separate deductions, such as state and local income taxes. Allocate other deductions as you determine.

Line 16. In column (a), enter the number of exemptions shown on your joint return. These amounts will be reported on the following lines.

- Form 1040EZ: Enter the number of unchecked boxes on line 5.
- Form 1040A, line 6d.
- Form 1040 (before 2018), line 6d.
- Form 1040 or 1040-SR (after 2017): Because the personal exemption is not available for 2018-2025, enter -0-.

In columns (b) and (c), allocate any exemptions claimed on your joint return to the spouse who would have claimed them if separate returns had been filed. Enter whole numbers only. For example, you can't allocate 3 exemptions by giving 1.5 exemptions to each spouse.

Line 17. In column (a), include any tax credits (except the earned income credit) shown on your joint return. These credits will be reported on the following lines.

- Form 1040EZ: No tax credits (except the earned income credit) are shown on Form 1040EZ. Enter -0-.
- Form 1040A: Include any tax credits (except the earned income credit) reported in the "Tax, credits, and payments" section of Form 1040A.
- Form 1040 (before 2018): Include any tax credits (except the earned income credit) reported in the "Tax and Credits" or "Payments" sections of Form 1040.
- Form 1040 (2018): Include any tax credits (except the earned income credit) reported on Form 1040, line 12a, or Schedule 3 or 5 (Form 1040).
- Form 1040 or 1040-SR (2019): Include any tax credits (except the earned income credit) reported on Form 1040 or 1040-SR, line 13a, or Schedule 3 (Form 1040 or 1040-SR).

In columns (b) and (c), allocate any child tax credit, credit for other dependents, child and dependent care credit, and additional child tax credit to the spouse who would have claimed the qualifying child (or qualifying relative) as a dependent if separate returns had been filed.

For tax years prior to 2018, these credits should be allocated to the spouse who was allocated the qualifying child's exemption on line 16.

Don't 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. In column (a), include any other taxes shown on your joint return. These other taxes will be reported on the following lines.

- Form 1040EZ, line 11.
- Form 1040A, line 29 or 38.
- Form 1040 (before 2018): Include any amounts reported on line 46 or in the "Other Taxes" section of Form 1040.
- Form 1040 (2018): Include any repayment reported on Schedule 2 (Form 1040), line 46, or any taxes reported on Schedule 4 (Form 1040).
- Form 1040 or 1040-SR (2019): Include any repayment reported on Schedule 2 (Form 1040 or 1040-SR), line 2, or any taxes reported in Part II of Schedule 2.

In columns (b) and (c), 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 healthcare 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. In column (a), include any federal income tax withheld shown on your joint return. The tax withheld will be reported on the following lines.

- Form 1040EZ, line 7.
- Form 1040A, line 40.
- Form 1040 (before 2018), lines 64 and 71.
- Form 1040 (2018), line 16, or Schedule 5 (Form 1040), line 72.
- Form 1040 or 1040-SR (2019), line 17, or Schedule 3 (Form 1040 or 1040-SR), line 11.

In columns (b) and (c), 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. In column (a), include any payments shown on your joint return. These payments will be reported on the following lines.

- Form 1040EZ, line 7, or any "Form 4868" amount included on line 9.
- Form 1040A, line 41, or any "Form 4868" or "Excess SST" amounts included on line 46.
- Form 1040 (before 2018), line 65 or 70.
- Form 1040 (2018): Schedule 5 (Form 1040), line 66 or 71.
- Form 1040 or 1040-SR (2019): Schedule 3 (Form 1040 or 1040-SR), line 8 or 10.

In columns (b) and (c), you can allocate joint estimated tax payments in any way you choose as long as both you and your spouse agree. If you can't agree, the estimated tax payments will be allocated according to the following formula:

Each spouse's <u>separate tax liability</u> Both separate tax liabilities	×	Estimated tax payments
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Allocate each spouse's separate estimated tax payments to the spouse who made them.

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, don't 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.
- The number of allocated dependents or exemptions must be entered in whole numbers. Don't 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 support, state unemployment compensation debts, or other federal nontax debt, such as a student loan).

Instructions for Form 8379 - Notices

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 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.

