



## TAX TIP #7

MY SERVICES



### CONCERNED YOUR TAX REFUND MAY GET SNATCHED??



Yesterday was a blurrrr as the official start of the tax season began. While many of you are anticipating the wonderful blessing of receiving a tax refund, there are a few of you who are hesitant about filing.

Is the fear that your refund will get snatched due to outstanding Federal/State taxes, Federal student loans, or back child support? If you owe the certain debt(s), the Treasury Department's Offset Program can use all or part of your refund to pay outstanding federal or state debt.

The original coronavirus relief bill stopped tax refunds from being taken for defaulted student loans if you filed your return after March 13, 2020. Refunds being processed as of that date were also protected.

Collection activities are currently paused through May 1, 2022 for all federal student loans and commercially held FFEL debt, which could protect your 2021 refunds as well.

Now, there are several situations in which the IRS can rightfully seize and intercept your refund on behalf of another agency. While there is a hierarchy of priority in terms of who can garnish your federal tax return first – the IRS taking top priority and the state taking lowest – individual state revenue services may allow state income tax refund garnishment for a debt in collection.

**HOWEVER**, before crying foul and blaming the government for making a terrible mistake consider whether any of the numerous reasons for tax refund seizure could apply to you:

- **Have An Outstanding Tax Debt** from the previous year(s). If you're behind on your state tax bill, the State can not only seize your state refund, however, they can apply to the IRS to seize money from your federal refund.
- **Behind on Child Support Payments.**  
**NOTE:** Don't make the mistake of thinking you're home-free when your son/daughter reaches 18 years of age. If you are still delinquent, this can continue even past the time that your child no longer qualifies for support.
- **You're Going Through Bankruptcy.** Under Chapter 13, the bankruptcy trustee can request that the court take your refund and apply it to your debts. Under Chapter 7, filers may lose their refund but can exempt some of it from seizure. Once your bankruptcy is fully discharged, your refunds will be safe. If you think this could happen to you, check with your bankruptcy trustee.



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When the IRS takes a taxpayer's refund, it is often called an "offset." In most cases, the taxpayer is informed via mail that the refund is subject to be offset, but by then, it is often too late to stop the offset. Although retrieving the refund once it's been applied to debt is difficult, determining whether the IRS will take your income tax check is relatively simple.

**Take the following steps if you THINK your refund may be seized by the IRS**

- Call the IRS's customer service department from 7 a.m. to 10 p.m. at 1-800-829-1040. If your refund is set to be applied to a federal or state debt, there will be a federal debt indicator on your account. However, keep in mind the IRS rep will not

be able to tell you who the debt is with or how much of your refund will be applied to the debt.

- Call the Financial Management Service Monday through Friday from 7:30 a.m. to 5 p.m. at 1-800-304-3107 or TDD 1-866-297-0517 if you did not receive a notice but suspect that your refund may be subject to an offset. FMS is the agency responsible for routing your refund check to the organization to which you owe money after the refund is issued. If you did receive a notice, the notice sent to you should provide you with the original refund amount, your offset amount, name, address, and phone number of the agency receiving the payment.
- Contact the agency to which you THINK you may owe a debt and inquire as to whether they have submitted a request to the IRS for your refund to be intercepted. If the answer is yes, the money you owe will be deducted from your refund and the remaining balance will be mailed to you in a check or direct deposited into your bank account, depending on the method you selected when you filed your return. If there is no remaining balance, or if you still owe an additional amount, the IRS will continue to intercept your refunds until the debt is paid in full.

## WHAT YOUR REFUND CAN'T BE SEIZED FOR

Even if you're experiencing financial difficulties, if the above situations don't apply to you, the possibility of having your refund seized might still be of concern. No worries, the IRS cannot seize your refund for the following:

- **Credit Card or Mortgage Debt (Not Related to Bankruptcy)** Only federal agencies can take your refund. However, if your bank account has a lien on it, a creditor might be able to swoop in and take money out if it's notified you received a hefty deposit.
- **Collection Agencies.** No collection agency or creditor can intercept your refund without a lien or add on to any existing tax debt. If a collection agency tries to convince you that they're from the IRS, don't bite. The IRS does use collection agencies, but only a select few, who will be happy to prove that they work for the IRS.
- **Overdrawn Checking Accounts and Bank Overages.** The bank can't take your refund; however, it is likely that if a refund lands in the troubled account, the bank will apply any penalties or bank overage fees against it before you can withdraw the money.

**NOTE:** If you filed a joint tax return, you may be entitled to part or all of the refund offset. This rule applies if your spouse is solely responsible for the debt. To request your part of the refund, file **Form 8379**, Injured Spouse Allocation



Unfortunately, in marriage and life, everything is not always "Happily Ever After". If that is the case, what can you do? Are you concerned about filing a joint tax return because your spouse may owe back taxes, child support or deficient on their federal student loans? Don't lose sleep; you may qualify for the Injured, Innocent Spouse or Equitable Tax Relief.

## What's the difference?

### **Injured Spouse Clause**

allows you to submit form 8379 to seek relief for an injured spouse. On this form, you can state that you have paid your share of tax and have nothing to do with your spouse's situation.

### **Innocent Spouse Relief**

allows you to seek relief when your spouse is guilty of tax evasion and provides you relief from additional tax you owe if your spouse or former spouse failed to report income, reported income improperly or claimed improper deductions or credits.

### **Separation of Liability Relief**

provides for the allocation of additional tax owed between you and your former spouse or your current spouse from whom you are separated because an item was not reported properly on a joint return. The tax allocated to you is the amount for which you are responsible.

### **Equitable Relief**

may apply when you do not qualify for innocent spouse relief or separation of liability relief for something not reported properly on a joint return and generally attributable to your spouse. You may also qualify for equitable relief if the correct amount of tax was reported on your joint return but the tax was not paid with the return.

### **Hardship Relief**

is available by submitting IRS Form 433-A as soon as possible. Provide your current income and expenses on the form, and submit it with supporting documentation. Submit copies of bills and receipts to prove your expenses and verify your financial hardship.

## Other Things You Can Do Before a Collections Agency Intercepts Your Tax Refund

- Pay off your student loans: You can't escape from student loan debt. If you have federal student loan debt, take advantage of the various payment plans to pay them

off. However, if your spouse owes on student loans, you may be able to find some relief with the injured spouse form, detailed above.

- **File separate returns:** When you file as married filing separately, the IRS can't intercept your tax refund, even if your spouse is in a situation where he or she may lose theirs.
- **Appeal to the court:** If you can't afford to make child support payments, file a motion with the court and ask that the amount you pay be lowered due to your financial hardship.

"A Closer Look" - The IRS's Collection organization has taken a number of actions to help taxpayers since the onset of COVID-19 , including some policy changes that will continue beyond the pandemic. The new change allows taxpayers who enter into Offers in Compromise to receive certain tax refunds. Have problems and owe past taxes? The special refund process may help, but you need to contact the IRS in advance and request an Offset Bypass Refund, or OBR, while your Offer in Compromise is being considered by the IRS.

Timing is important. An OBR is generally only possible before the IRS applies the current refund to a prior liability tax. The window of time to request an OBR is after the refund return is filed and before the IRS processes the return and offsets the refund. Once the refund has been offset, it's too late to request an OBR. Also, an OBR is based upon establishing a specific hardship; for example, the taxpayer needs \$500 to pay a utility bill to avoid disconnection or needs \$750 to avoid eviction. Once the amount of the hardship is established, the IRS will only bypass enough of the offset to alleviate the hardship amount. You can find out more about the [Offer in Compromise program here..](#)

Still have questions, don't hesitate to call or email me.

In the meantime, have a blessed, productive and prosperous day!

Xo,

**Syreeta~**

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