

General Instructions

Purpose of Form

Form AL8379 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 AL8379, 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 state income tax.

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

Innocent Spouse Relief

Do not file Form AL8379 if you are claiming innocent spouse relief. 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 (a) there is an understatement of tax because your spouse omitted income or claimed false deductions or credits, and you did not know or have reason to know of the understatement, (b) there is an understatement of tax and you are divorced, separated, or no longer living with your spouse, or (c) given all the facts and circumstances, it would not be fair to hold you liable for the tax.

When To File

File Form AL8379 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 AL8379 for each year you meet this condition and want your portion of any offset refunded.

Where To File

Mail the completed Form AL8379 to:

Alabama Department of Revenue
 P.O. Box 327410
 Montgomery, AL 36132-7410

How To File

File Form AL8379 and be sure to attach a

copy of all Forms W-2 and W-2G for both spouses, and any Forms 1099 showing state income tax withholding, to Form AL8379. The processing of Form AL8379 may be delayed if these forms are not attached, if the form is incomplete when filed, or if you attach a copy of your joint tax return.

Amending Your Tax Return

If you file an amended joint tax return to claim an additional refund and you do not 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 AL8379 to allocate the additional refund.

Time Needed To Process Form AL8379

Generally, if you file Form AL8379 the time needed to process it is about 8 weeks.

Specific Instructions

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 net clearly belong to either spouse (for example, a penalty on early withdrawal of savings from a joint bank account) would be equally divided.

The Alabama Department of Revenue will figure the amount of any refund due the injured spouse.

Line 10a. Enter only Form W-2 income on this line. Enter the separate income that each spouse earned.

Line 10b. Identify the type and amount. 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 11. Enter each spouse's separate adjustments, such as an IRA deduction. Allocate other adjustments as you determine.

Line 12. If you used the standard deduction

on your joint tax return, enter in both columns (b) and (c) one-half of the basic standard deduction shown in column (a). Also allocate any real estate taxes, new motor vehicle taxes, and any disaster loss as you determine, if applicable.

Enter your standard deduction on line 12, column (a).

If you itemize your deductions, enter each spouse's separate deductions, such as employee business expenses. Allocate other deductions as you determine.

Line 13. Enter on line 13(a) the personal exemption claimed on joint return. On lines 13(b) and 13(c) enter \$1500.00.

Line 14. Allocate any dependent exemptions claimed on joint return.

Line 15. Allocate any credits claimed on joint return.

Line 16. Enter state 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 AL8379 if you are filing it by itself.

Line 17. You can allocate joint estimated tax payments in any way you choose as long as both you and your spouse agree. If you cannot agree, the estimated tax payments will be allocated according to the following formula:

$$\frac{\text{Each spouse's separate tax liability}}{\text{Both separate tax liabilities}} \times \text{Estimated tax payments}$$

Allocate each spouse's separate estimated tax payments to the spouse who made them.

How To Avoid Common Mistakes

Mistakes may delay your refund or result in notices being sent to you.

- Make sure to enclose copies of all Forms W-2 and W-2G for both spouses, and any Forms 1099 showing income tax withheld.
- Any dependency exemptions must be entered in whole numbers. Do not 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