

INJURED SPOUSE RELIEF

- ❖ When a joint return is filed and the refund is used to pay one spouse's past-due child and/or spousal support, a past-due federal debt, or past-due state income tax, the other spouse may be considered an injured spouse. The injured spouse can claim his or her share of the refund using Form 8379, Injured Spouse Claim and Allocation.

- ❖ To be considered an injured spouse, you must have:
 - Filed a joint return,
 - Received income (such as wages, interest, etc.),
 - Made tax payments (such as withholding or estimated tax payments),
 - Reported the income and tax payments on the joint return, and
 - An overpayment, all or part of which was applied to the past-due amount of the other spouse.

- ❖ You are an injured spouse if you file a joint return and all or part of your share of the overpayment was, or is expected to be, applied (offset) against your spouse's past-due Federal tax, child or spousal support, Federal nontax debt (such as a student loan) or state income tax. Complete Form 8379 if **all** three of the following apply and you want your share of the overpayment shown on the joint tax return refunded to you. But if your main home was in a community property state, you may file Form 8379 if only item 1 below applies:
 - 1)** You are not required to pay the past-due amount.\
 - 2)** You reported income such as wages, taxable interest, etc. on the joint return.
 - 3)** You made and reported payment such as Federal income tax withheld from your wages or estimated tax payments, OR you claimed the earned income credit or other refundable credit, on the joint return.



**LEGAL AID SOCIETY OF ORANGE COUNTY and
COMMUNITY LEGAL SERVICES
Low Income Taxpayer Clinic**

(800) 834-5001 or (714) 571-5200

Mondays – Thursday 9 a.m. – 8 p.m./Fridays 9 a.m. – 4 p.m.