



Tax Issues for Domestic Violence Survivors: What Advocates Need To Know



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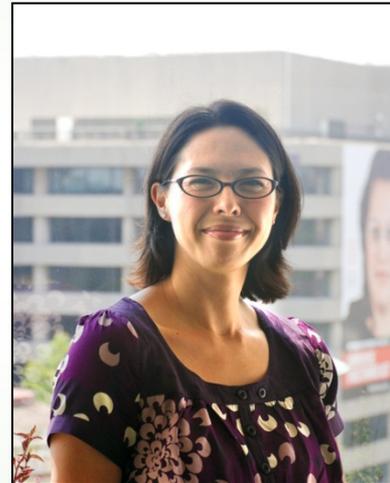
Tax Issues for Domestic Violence Survivors: What Advocates Need To Know



Speakers for This Session



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Topics We Are Going to Cover

- When Survivors Need to File a Tax Return
- Some Filing Status Issues
- Federal and State Tax Credits
- Free Tax Preparation Assistance
- Tax Rights Everyone Has
- When the IRS Sends A Letter
- Help with IRS Controversies
 - Low-Income Taxpayer Clinics
 - Taxpayer Advocate Service
- Options for People Who Can't Pay Their Taxes
 - Reasonable Cause
 - Currently Not Collectible Status
 - Installment Payments
 - Offers in Compromise
- Exceptions to Tax Liabilities From Married Filing Jointly Returns
 - Injured Spouse
 - Innocent Spouse
- Resources



When Should Survivors File a Tax Return?

- When they have over a certain amount of income
 - Their own (wages, salary or other taxable income)
 - If married, may include income of a spouse
- To receive tax benefits (i.e. refund or tax credits)
- To establish separate tax “existence”
 - File ASAP if a spouse or ex may file a joint return!



A Few Thoughts About Refunds

- Survivors may be worried their mail is not safe.
 - Your state agencies or coalitions may offer an Address Confidentiality Program, which provides survivors with a safe address.
 - Your program can also provide an address.
 - Have the refund directly deposited to a bank account.
- Survivors may not have their own bank accounts.
 - Some EITC coalitions can help survivors establish bank accounts.
 - Some VITA sites have options for pre-paid debit cards. Downsides: user fees and if the card is lost or stolen, so is the refund.



Refunds Can Be Used to Build Savings and Assets

Tax refunds can help survivors save for a rainy day.

- If using direct deposit, they can split a refund
 - EX: for a \$700 refund, put \$500 in a checking account and \$200 in a savings account or savings bond
- Many EITC coalitions can help survivors save and build assets



BUT Tax Refunds Can Be Withheld

- If a survivor owes taxes from a prior year
 - This may include a spouse's or ex-spouse's tax debt
 - *Unless* the filer qualifies as an “injured spouse” or an “innocent spouse”
- If a survivor owes child support
- If a survivor is in default on a student loan



Filing Status

- Filing status choices:
 - Single
 - Married Filing Jointly
 - Married Filing Separately
 - Head of Household
 - Qualifying Widow(er) with a Dependent Child
- Marital status is determined based on the last day of the taxable year (unless a spouse died during the year)



Filing Status Options for Married Survivors

Married survivors don't necessarily have to file jointly:

- Married Filing Separately
 - Less favorable tax rates
 - MFS will disqualify for the federal EITC and Child and Dependent Care Tax Credit
- If legally separated, can file as Single (or Head of Household if other requirements are met)
- Can use HOH (and get more favorable rates) if survivor
 - Is either single or did not live with spouse for the last 6 months of the year
AND
 - Pays half the cost of maintaining a household
 - Where a dependent child lives for over half the year



**Domestic violence survivors
may be eligible for thousands of
dollars in federal and state tax
credits.**



Important Federal Tax Credits

Domestic violence survivors should know about three federal tax credits:

- The federal **Earned Income Tax Credit**
- The federal **Child Tax Credit**
- The federal **Child and Dependent Care Tax Credit**

* Tax filers can receive all of these tax credits if they are eligible*



These Tax Credits Can be Worth A Lot

Filing for her 2011 taxes, an unmarried working woman with three children and child care expenses, who earned \$14,999 in 2011, could receive:

- Up to \$5,751 from the federal EITC
- Up to \$3,000 from the federal Child Tax Credit
- Up to \$2,100 from the federal Child and Dependent Care Tax and
- More, if there are state tax credits!



How Do Tax Credits Work?

A tax credit can lower the amount of taxes owed or provide a refund:

- If the tax credit is **nonrefundable**, it will lower a tax filer's tax bill – at most, down to zero.
 - Ex: \$500 tax bill and \$700 NRF credit = 0
- If the tax credit is **refundable**, a survivor can receive a refund, if she doesn't owe taxes
 - Ex: \$500 tax bill and \$700 RF credit = \$200 refund



Refundable Credits

- The federal **Earned Income Tax Credit**
- The federal **Child Tax Credit**
- Unfortunately, the federal **Child and Dependent Care Tax Credit** is not refundable



Earned Income Tax Credit

The federal **Earned Income Tax Credit** is a wage supplement for low- and moderate- income workers.



Earned Income Tax Credit (EITC)

For 2011, the EITC is worth:

- Up to **\$5,751** for a survivor with three or more children who earned less than \$43,998 (\$49,078 if married)
- Up to **\$5,112** for a survivor with two children who earned less than \$40,964 (\$46,044 if married)
- Up to **\$3,094** for a survivor with one child who earned less than \$36,052 (\$41,132 if married)
- Up to **\$464** for a survivor without qualifying children who earned less than \$13,660 (\$18,740 if married)



Requirements for the EITC

A survivor must:

- Have some *earned income*
 - This can include combat pay
 - The filer can have unemployment or other benefits, but needs at least some earnings
- Be a citizen, legal resident, or married to one
- Have a valid SSN



Filing Status for Claiming the EITC

A survivor can claim the EITC if she files as:

- Married Filing Jointly
- Single
- Head of Household
- But *not* Married Filing Separately



Claiming children for the EITC

Child must:

- Be related to the survivor, adopted, or a foster child
- Live with the survivor for over half the year
- Be under 19 (24 if a student, no age limit if the child is disabled)



What If A Child Is Claimed by Someone Else?

The IRS will freeze the returns (and refunds!) and apply the ***tiebreaker rules***:

- If one claimant is a parent and the other is not, the parent will be able to claim
- If both are parents, either:
 - The parent who lived with the child longer
 - Or, if the child lived with each parent for the same amount of time, the parent with higher AGI
- If neither is a parent, the claimant with greater AGI



The Child Tax Credit

The federal **Child Tax Credit** is intended to help offset some of the costs of raising children.



Child Tax Credit

- A survivor can claim up to **\$1,000** per child, no matter how many children she has
 - Example: Jane is a single mom with 2 children who earned \$8,500 in 2011. She can claim a **\$2,000** Child Tax Credit.
- Survivor's income is taken into account
 - Amount of credit decreases as the survivor's income rises (> \$55,000)
 - Income cut-off (> \$74,000)



Requirements for Claiming

- Child who is claimed must meet relationship and residency requirements *and*:
 - Age limit is 17 AND
 - Child must be claimed as a dependent (affects tiebreaker)
- Married survivors can file jointly or separately. Can also claim if filing as single or as head of household.



The Child Tax Credit -- Refund

- If a survivor does not owe enough taxes to use all of her **Child Tax Credit**, she may be eligible for a refund
- The survivor will receive either
 - 15% of her income above **\$3,000** or
 - the amount of the Child Tax Credit that exceeds her tax liability, whichever is less



Example

Jane, who has two kids and earned \$8,500 in 2011, had no income tax liability. She will receive a refund of **\$825** from the Child Tax Credit.



Child and Dependent Care Tax Credit

- The **Child and Dependent Care Tax Credit** can help survivors meet their child and dependent care expenses
- The care must be employment-related – that is, the survivor must use the child or dependent care so that she can work *or* look for work



Child and Dependent Care Tax Credit

How does it work?

- Survivors get a percentage of eligible expenses, based on income
- “Eligible expenses” includes any kind of paid child care and care for disabled dependents who live with the survivor. Can also include before- and after-school care and summer day camp, etc.
- Worth a maximum of **\$2,100** for two children or dependents and **\$1,050** for one child or dependent
- The credit is *not* refundable.



Eligibility for Other Benefits

Will refunds from the federal credits affect a survivor's eligibility for other benefits?

- For 2011 (and 2012), the answer is NO
- Refunds received by low-income filers will not count as income for eligibility determinations for federally funded public benefits programs (like TANF, SNAP, SSI).
- Any savings contributions from refunds will also be excluded from determining benefit eligibility for 12 months following the receipt of the refund



The Cheat Sheet

The credit	To be eligible, a family needs	Age of qualifying children	Maximum credit value
EITC	Earned income, but not more than \$49,078 for married couple with 3 kids	Under 19, under 24 if a full-time student, no age limit if disabled	\$5,751
CTC	for refund, \$3,000 in earned income	Under 17	\$1,000 per child
CDCTC	Work-related child care expenses	Under 13 (unless disabled)	\$2,100



How to Claim these Great Benefits

A survivor must:

- File a federal and state tax return
 - Filers with children must file using IRS form 1040 or 1040A, but **not** the 1040 EZ
 - File a separate form for each tax credit
- *Survivors may also be able to file or correct returns for tax years prior to 2011*



Help Available for Survivors

Make sure survivors know that free tax filing assistance is available.



Get the Facts about Free Tax Preparation Help

- The IRS-sponsored **VITA Program** offers free tax help to low- to moderate-income (generally, \$48,000 and below) people
- The IRS also coordinates with AARP to offer tax help to low- to moderate-income people, with special attention to those age 60 and older, through a program called **Tax-Aide**
- Individuals with income below \$57,000 can use the **Free File Program** to e-file using free tax prep software



Volunteer vs. Paid Tax Prep

- Volunteer tax preparers are trained by the IRS and have IRS support
- If there is a problem with a tax return, some private tax preparers close up shop after tax season and can't be contacted
- Free tax preparers don't charge exorbitant Refund Anticipation Loans (RALs) or fees
- Sometimes free tax preparers can connect families with other services or resources



Everyone Has Tax Rights

- To see and understand the entire return (including supporting documents) before signing a joint return
- To refuse to sign a joint return (married people do not have to file jointly!)
- To request an automatic 4-month extension of time to file (Form 4868)
- To get copies of prior year returns from the IRS



IRS Letters Sent to Survivors

The IRS sends letters if they:

- Think the survivor (and/or her spouse or former spouse) should have filed a tax return
- Think the survivor (and/or her spouse or former spouse) owes taxes
- Want more information about something the survivor (and/or her spouse or former spouse) put on a tax return



People with IRS Controversies

Low Income Taxpayer Clinics can help low income individuals (250% poverty guidelines) with direct representation when the IRS:

- Says something more is owed than the survivor thinks they owe, or
- Is trying to collect, and the survivor can't pay any or all of what is owed



People with IRS Controversies

The Taxpayer Advocate Service can act as an internal ombudsman to help survivors when they:

- Are experiencing economic harm or are about to suffer economic harm
- Have experienced an unreasonable delay at the IRS when they've tried to resolve a tax account problem
- IRS system or procedure has either failed to operate as intended, or failed to resolve the problem
- The way the tax laws are being administered is unfair or has or will impair the survivor's rights



Reasonable Cause Relief

- Available for relief from Failure to File and Failure to Pay penalties (but not interest) when there is a reasonable excuse for failure to file or pay taxes due
- Facts and circumstances test
- Generally speaking, ignorance of the law, mistakes, or forgetfulness, by themselves, are not sufficient



Inability to Pay: Some Options

- If a taxpayer owes money to the IRS, they will try to collect it using liens and levies
- There are collections alternatives available (get directly from IRS Collections, or get help from an LITC)
 - Currently Not Collectible Status (the IRS will stop trying to collect the money)
 - Installment Agreements (the IRS will take payments over time)
 - Offer In Compromise (the IRS will accept less than the full amount due)



Tax Liability for Married Survivors

There is generally joint and several liability for the full amount due under a married filing jointly tax return.

- If survivor's signature was forged, the return is not valid
 - this is identity theft!
- If survivor signed under duress, the return is not valid.
 - To prove duress, must show that at the moment the return was signed, the spouse was unable to resist the demands from the other spouse to sign the return, and the spouse would not have signed the return but for the pressure from the other spouse
 - Narrower than abuse



Exceptions to Joint Liability

There are times when the survivor can avoid joint liability stemming from a jointly filed return:

- Injured Spouse
- Innocent Spouse



Injured Spouse Allocation

- When a taxpayer's spouse owes individual liabilities (such as child or spousal support, federal student loan debt, or old tax debts from non-Married Filing Jointly years), and a MFJ return is filed, the IRS will ordinarily take a refund attributable to the taxpayer's withheld income to satisfy the spouse's previous individual liabilities
- Taxpayer can file a Form 8379 stop this or get a refund of previously taken refunds (attach to Form 1040 or file separately)
- There's a special Statute of Limitations for refund claims: 3 years from when the return is filed or 2 years from the time the tax is paid (if later)



Innocent Spouse Relief Basics

There are three main categories of innocent spouse relief:

1. The joint tax return understated the tax due, but the survivor had no knowledge or reason to know about the erroneous items

- For example: side income the spouse had or the factual circumstances that made an item not allowable as a deduction/credit, and it wouldn't be fair to hold her liable, taking into account all the facts and circumstances



Innocent Spouse Relief Basics, cont'd

2. The joint tax return understated the tax due, the survivor had no actual knowledge, and the parties haven't been living together for at least a year

- The IRS will allocate the liability for a deficiency in approximately the same manner as if the spouses had filed separately
- No refunds will be made



More Innocent Spouse Relief Basics

3. The joint tax return understated the tax due *or* the amount the tax return showed as due wasn't paid, and it wouldn't be fair to hold the survivor responsible

- Some factors include:
 - Marital status
 - Knowledge or reason to know of item (for deficiency) or that liability would not be paid (for underpayment)
 - Significant benefit to requesting spouse from the understatement or underpayment
 - Compliance with income tax laws
 - Domestic violence
 - Mental/physical health
 - Economic hardship



Innocent Spouse Relief Procedures

- Time Frames
 - For 1 and 2, the survivors must file for innocent spouse relief within two years of first collection activity against the requesting spouse. Collection activity includes an offset of the taxpayer's income tax refund, the filing of a claim by the IRS in a court proceeding where the taxpayer is a party, and the issuance of a Notice of Intent to Levy.
- Notice
 - The non-requesting spouse will be notified of innocent spouse claim and have a right to intervene in the requesting spouse's case. In a Tax Court case, either spouse may file a motion for a protective order to keep her/his address from the other spouse.
- Assistance
 - Obtaining innocent spouse relief for a survivor can be difficult – get assistance!



Resources for You

- On filing requirements, filing status, and tax credits, visit www.irs.gov
- On tax credits and tax credits outreach, visit www.nwlc.org/loweryourtaxes
- On EITC coalitions in your county, visit the National EITC Partnership website: www.cbpp.org/eitc-partnership



Free Tax Preparation Resources

- Call the IRS' hotline at **1-800-906-9887** or visit www.irs.gov/individuals/article/0,,id=219171,00.html to locate a VITA site near you
- Call **1-888-227-7669** or visit <http://www.aarp.org/money/taxaide/> to locate an AARP-sponsored Tax-Aide site near you
- For information about Free File, visit <http://www.irs.gov/efile/article/0,,id=220412,00.html>



Resources for Survivors with IRS Controversies

- To locate a Low-Income Taxpayer Clinic near you, visit <http://www.irs.gov/advocate/content/0,,id=151026,00.html>
- To locate the Taxpayer Advocate Service office nearest you, call **1-877-777-4778**.