

2021 Request for Injured Spouse Protection from Application of Joint Overpayment Against Spouse's Delinquencies and Debts

**Arizona Form
203**

For information or help, call one of the numbers listed:

Phoenix (602) 255-3381
From area codes 520 and 928, toll-free (800) 352-4090

Tax forms, instructions, and other tax information

If you need tax forms, instructions, and other tax information, go to the department's website at www.azdor.gov.

Income Tax Procedures and Rulings

These instructions may refer to the department's income tax procedures and rulings for more information. To view or print these, go to our website select *Reports, Statistics and Legal Research* from the main menu then click on *Legal Research* and select a *Document Type* and *Category* from the drop down menus.

Publications

To view or print the department's publications, go to our website and click on *Reports, Statistics and Legal Research* from the main menu then click on *Publications* in the left side column.

General Information

NOTE: For overpayment amounts used to pay a liability in taxable years 2016 and prior, see Form 200 for instructions to request protection under the injured spouse provisions.

Do not use Form 203 to make an innocent spouse relief claim. You must use Form 200 to make a request for innocent spouse relief and separation of liability and equitable relief.

Arizona is a community property state. In community property states, overpayments are considered joint property and generally applied (offset) to legally owed past-due obligations of either spouse.

For tax years beginning from and after December 31, 2016, under Arizona Revised Statute § 42-2203, Arizona law allows a taxpayer (the injured spouse) to apply *directly* to the department for protection of the injured spouse's share of any Arizona income tax overpayment or refund from setoff for the following:

- past due **state** taxes,
- child support,
- spousal maintenance, or
- other obligations of the taxpayer's spouse that are ordered by a court or owed to an agency of this state.

NOTE: You cannot use Form 203 to request protection from offset for past-due **federal taxes**. You must contact the Internal Revenue Service (IRS).

Purpose of the Form

You may apply for protection as an **injured spouse** if your share of an overpayment shown on your joint return is expected to be applied against your spouse's past-due delinquencies or debts. **The taxpayer (spouse) requesting**

injured spouse protection must have Arizona income with taxes withheld and reported on their own Form W-2 or Form 1099.

If the department grants relief, the amount of the injured spouse's protective share is determined by each spouse's *percentage* of the total amount of income taxes withheld from wages and estimated tax payments. Because Arizona is a community property state, the total amount of estimated taxes is generally divided evenly between spouses unless it is clearly demonstrated by the taxpayers that a portion of the estimated payments were made for income that is not community property.

When to File Form 203

You **must** complete and include Form 203 with your Arizona joint income tax return, when filed. *Be sure to check box 4a on your income tax return (Forms 140, 140A, 140EZ, 140NR, 140PY, or 140X.)* Place the completed Form 203 on top of your tax return or behind Arizona Form 131, if filing.

Can I Request Protection as an Injured Spouse on an Overpayment Shown on My Small Business Tax return?

Yes. If you and your spouse are filing a joint Small Business Income tax return (Form 140-SBI, 140NR-SBI or 140PY-SBI) you (or your spouse) you may also apply for protection as an **injured spouse on the small business income tax return along with your regular income tax return.**

If you (or your spouse) are not requesting protection on your individual income tax return and did not include it with your income tax return (Form 140, 140NR or 140PY), and you want to request protection from an overpayment shown on your Small Business Income tax return, you **must** complete and include Form 203 with your small business income tax return. Be sure to check box 3a on your small business income tax return. Place the completed Form 203 behind Arizona Form 131, if filing. If not filing form 131, place the form on top of your small business income tax return (or on top of your regular income tax return if you are not filing a small business income tax return).

NOTE: If you are requesting protection on **BOTH** your individual income tax return and your small business income tax return and are filing both returns at the same time, file **only one Form 203** and be sure to check the Injured Spouse Protection box on both forms (Box 4a on the regular tax return **and** box 3a on the small business income tax return).

If you do not complete and include Form 203 with your income tax return(s), your share of the overpayment may be applied to past due liabilities. In this case, for information about amounts held for:

1. **Past-due state taxes**, call one of the phone numbers listed on this page.
2. **Child support or spousal maintenance**, contact the Arizona Department of Economic Security.
3. **Another Arizona state agency**, contact that agency.

4. **The IRS**, contact the IRS.
5. **A court order**, contact that court.
6. **An Arizona city or town**, contact that city or town.

Can Form 203 be e-filed?

Yes. If you electronically file your income tax return you must also include Form 203 with the income tax return, when e-filed.

If you mail your tax return(s), you must also mail Form 203.

Does the Injured Spouse Have to Complete Another Form 203 if We Amend our 2021 Joint Income Tax Return or Amend our 2021 Small Business Tax Return?

Yes. If you file a 2021 amended income tax return (Form 140X or 140X-SBI) and increase your 2021 overpayment reported on your original (or last filed amended return), the injured spouse must complete and include a new 2021 Form 203 to request protection from setoff of any additional overpayment to your spouse's outstanding debts.

NOTE: *If you file an amended return, you cannot request protection from offset of any overpayment shown on your original (or last filed amended) income tax return.*

Line-by-Line Instructions

If both, taxpayer and spouse, are requesting injured spouse protection of their share of any overpayment shown on the joint income tax return, each spouse must complete and include a separate Form 203 with the joint tax return(s), when filed.

Taxable Year; Original or Amended Tax Return

- If you file your income tax return on a fiscal year basis, enter the beginning and ending dates in the space provided.
- Check the box indicating this form is filed for either an *original* or an *amended* filed tax return.

Name and Address Information

Lines 1 through 3

Enter the following information exactly as it is shown on your joint income tax return for which you are filing this form. The name and Social Security Number (SSN) shown first on the tax return must also be shown first on Form 203.

- Enter your name and SSN in the spaces provided.
- Enter your spouse's name and SSN in the spaces provided.
- You **must** check the appropriate box indicating which of you the injured spouse is.
- Enter your current home address.

If you have a foreign address, enter the information in the following order: city, province or state, and country. Follow the country's practice for entering the postal code. Do not abbreviate the country name.

- Enter your daytime phone number.

Part 1 – Do You Qualify as an Injured Spouse?

Lines 4 through 8

You must answer the questions on lines 4 through 8 to determine if you qualify as an injured spouse and whether you can file this form to request protection of any overpayment of taxes paid.

Line 8

Because the amount of the protected share is based solely on an overpayment of taxes from income taxes withheld and/or estimated taxes paid, an injured spouse cannot request relief from setoff if you answered "No" to question 8.

To obtain relief from setoff, the injured spouse must contact the applicable agency or political subdivision for a request for recovery of the protected amount of the overpayment.

Part 2 - Allocation of Arizona Income Tax Withholding and Estimated Tax Payments

Line 9 - Arizona income tax Withheld

- In column (a), enter the **total** amount of Arizona income tax withheld from **all** Forms, W-2 and 1099, reported on your income tax return.
- In column (b), enter the amount of Arizona income tax withheld on the taxpayer's W-2 and 1099 form(s).
- In column (c), enter the amount of Arizona income tax withheld on the spouse's W-2 and 1099 form(s).

Line 10 - Arizona Estimated Taxes paid

Because Arizona is a community property state, estimated payments are generally divided evenly between spouses unless it is clearly demonstrated by the taxpayers that a portion of the estimated payments were for income that is not community property (*separate income*). In this case, report those payments in the column for the individual who received the separate income.

NOTE: *If you elected to report small business income on the Small Business tax return (140-SBI, 140NR-SBI or 140PY-SBI) and are requesting Injured Spouse Protection on both your regular tax return and the small business income tax return, include your estimated tax payments made for your small business tax return and your regular tax return. Enter the total of all estimated tax payments in column (a).*

- In column (a), enter the **total** 2021 Arizona estimated taxes reported on the joint return.
- In column (b), enter one-half of the amount entered in column (a).
- In column (c), enter one-half of the amount entered in column (a).

Line 11

Add lines 9 and 10 for each column. Enter the totals on line 11.

Line 12 -

The percentages entered on lines 12 and 13, when added together, should equal 1.000.

Divide line 11, column (b) by line 11, column (a) and enter the result on line 12, column (b). You must round your answer to three decimal places.

For example:

- If line 11, column (a) = \$ 1,245, total amount reported on joint return; and
- If line 11, column (b) = \$ 860, the amount reported for Taxpayer; then
- The percentage entered on line 12, column (b) = .691 ($\$860 \div \$1,245 = .69076$)

Line 13

Subtract line 12 from 1.000 and enter the difference. For the example above, the taxpayer would enter .309 (1.000 minus .691) on line 13.

Sign and Date Form 203

The injured spouse must sign and date Form 203 in the space provided. The department may not consider your request if it is not signed and dated.

Paid Preparer Must Sign Form 203

Anyone that you pay to prepare Form 203 for you must sign the Form 203 in the space provided. The preparer must give you a copy of the completed Form 203 for your records.

Someone who prepares Form 203 but does not charge you should not sign Form 203. If you pay someone else to prepare your Form 203, that person must also include an identification number where requested. A paid preparer who fails to include the proper identification numbers may be subject to a penalty.

A paid preparer may use any of the following:

- his or her PTIN,
- his or her SSN, or
- the EIN for the business.