

**TAX ISSUES FOR DOMESTIC VIOLENCE SURVIVORS:
What Advocates Need To Know**

PCADV Economic Justice and Empowerment Initiative

- Designed to offer comprehensive support and assistance to programs.
- Technical support:
 - ▣ Listserv
 - ▣ Webinars
 - ▣ Trainings
 - ▣ Resources
 - ▣ Community partnership building

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Speakers for This Session



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We Are Going to Cover

- When Survivors Need to File a Tax Return
- Some Filing Status Issues
- Federal and State Tax Credits
- Tax Rights Everyone Has
- Ways Low-Income Taxpayer Clinics Can Help with Controversies
- Options for People Who Can't Pay Their Taxes
- Ways to Get Out of Certain Tax Assessments and Penalties
 - ▣ Reasonable Cause
 - ▣ Injured Spouse
 - ▣ Innocent Spouse
- Tips from the Tax Front Line
- Resources

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Survivors Need to File a Tax Return

- When they have over a certain amount of income
 - ▣ Their own income (wages, salary or other taxable income)
 - ▣ If married, income earned by a spouse
- To receive tax benefits
- To establish separate tax “existence”

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Survivors Who Are Immigrants

- Immigrant Survivors should be encouraged to file tax returns:
 - ▣ Regardless of immigration status, if income is above a certain amount survivors **must** file a tax return.
 - ▣ In general, all information provided on a tax return is confidential, and won't be shared with other agencies or individuals.
 - ▣ Filing a tax return is the only way to claim valuable tax credits for which the survivor may be eligible. (We'll be covering these in detail.)
 - ▣ Immigrants who file tax returns are documenting information that can be useful in **future immigration proceedings**—like income, residence in the U.S., and “good moral character.” Filing taxes can also be useful in a successful application for deferred deportation status under the President's new Executive Order.

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Some Filing Status Issues

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

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More Specifics: Filing Status Issues

Survivors don't necessarily have to file jointly, if married:

- Can use HOH (and get the favorable HOH rates) if supporting a related dependent for more than half the year and either
 - Single
 - Separated and the spouse was not a household member for the last 6 months of the year
- What's the difference between HOH and MFS?
 - MFS will disqualify them from the federal Earned Income Tax Credit (EITC) and Child and Dependent Care Tax Credit
 - Under a special exception to the Premium Tax Credit, domestic violence survivors and abandoned spouses filing MFS can claim the Premium Tax Credit.
 - Different definition for state tax relief, but same idea

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Important Federal Tax Credits

Domestic violence survivors should know about four federal tax credits:

- The federal **Earned Income Tax Credit**
- The federal **Child Tax Credit**
- The federal **Child and Dependent Care Tax Credit**
- The federal **Premium Tax Credit** (to help purchase health insurance under the Affordable Care Act)

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

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Tax Forgiveness

Survivors in Pennsylvania may also qualify for tax forgiveness:

- This is a *state* income tax refund.
- The amount of the **Tax Forgiveness Credit** depends on the tax filer's income and the amount of state taxes owed.

Tax Credits Can Be Worth A Lot

Filing for her 2015 taxes, an unmarried working woman with three children and child-care expenses in PA, who earned \$16,000 in 2015, could receive:

- Up to \$6,242 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
- "Forgiveness" of 100% of her Pennsylvania state income tax bill

Tax Refunds Can Help Survivors Save

Refunds can be used to:

- Create an emergency fund or build up savings
 - Use direct deposit to put funds into a bank account or savings bond
 - Open bank accounts -- many EITC coalitions can help.
 - Establish matched savings programs for survivors.

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

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Earned Income Tax Credit

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

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Earned Income Tax Credit

For 2015, the federal EITC is worth:

- ▣ Up to **\$6,242** for a survivor with three or more children who earned less than \$47,747 (\$53,267 if married filing jointly).
- ▣ Up to **\$5,548** for a survivor with two children who earned less than \$44,454 (\$49,974 if married filing jointly).

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Earned Income Tax Credit

2015 EITC maximum values, cont' d:

- Up to **\$3,359** for a survivor with one child who earned less than \$39,131 (\$44,651 if married filing jointly).
- Up to **\$503** for a survivor without qualifying children who earned less than \$14,820 (\$20,330 if married filing jointly).

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Requirements for the EITC

A survivor must:

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

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Claiming Children for the EITC

Child must:

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

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The Child Tax Credit (CTC)

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

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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 two children who earned \$8,500 in 2015. She can claim a **\$2,000** Child Tax Credit.
- *But* the credit will be reduced if the survivor's income more than a certain amount.

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Claiming Children for the CTC

- A child who is claimed must meet relationship and residency requirements for the EITC and:
 - Be age 17 or under AND
 - Be claimed as a dependent by the survivor
- A child who is claimed also must be:
 - A U.S. citizen, or
 - A U.S. national, or
 - A resident alien

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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 earned \$8,500 in 2015. She had no income tax liability. She will receive a refund of **\$825** from the Child Tax Credit.

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Child and Dependent Care Tax Credit

- The **Child and Dependent Care Tax Credit** can help meet the cost of care for dependent children under age 13 OR disabled dependents and/or spouses who live with the survivor.
- 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.
- Any kind of paid child care, including before- and after-school care, summer day camp, center, family day care, or in-home care, can be claimed.

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How the Child and Dependent Care Tax Credit Works

- Survivors get a percentage of eligible expenses, based on income.
 - **Example:** Maria has \$15,000 in income, and paid \$1,500 in child care expenses in 2015. Her Child and Dependent Care Tax Credit is \$525.
- Worth a maximum of **\$2,100** for two children or dependents and **\$1,050** for one child or dependent
- This credit is *not* refundable, but it reduces tax liability and can increase refund from other credits.

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Premium Tax Credit Helps Families Pay for Health Insurance

- The Affordable Care Act—the health care law sometimes called Obamacare—is making health coverage more affordable and easier to obtain for millions of American women and their families.
- In 2015, almost 12 million people signed up for a health plan through the Marketplaces.
- 87% of them received financial assistance to help cover the monthly cost.

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2016 Enrollment

- The 2016 “open enrollment period”—when anyone will be able to sign up for health insurance or to change their current plan—runs until January 31, 2016.
- Outside of open enrollment, people may qualify for special enrollment periods if they experience certain life events such as marriage, the birth or adoption of a child, or a job change.
- Questions about enrollment? Go to healthcare.gov or call (800) 318-2596.

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The Premium Tax Credit

The Premium Tax Credit provides financial assistance for paying monthly costs of health insurance obtained through the marketplace.

- Available as soon as survivors start paying for insurance
- Credit is paid directly to insurer every month
- Amount based on family size and income
- Families should report any changes in income or family size to the Health Insurance Marketplace throughout the year, because that may affect their Premium Tax Credit.

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Example: The Smith Family

Maria, her 10 year old daughter, and 7 year old twin sons have a household income of \$48,500 (200% FPL) and want to purchase the silver benchmark health insurance plan.

- At this income level, Maria will contribute no more than 6.3% of her annual income—or \$3,056—toward her family’s health insurance premium.
- The total annual premium for the benchmark health insurance plan in their area is \$9,000.
- Therefore their annual Premium Tax Credit is worth \$5,944 (\$9,000-their contribution of \$3,056), or \$495 a month.
- Every month, their insurer will be paid the \$495 Premium Tax Credit directly, and Maria will be responsible for paying the insurer the remaining \$255 a month.

Premium Tax Credit: Tax Year 2015

- If a survivor received a Premium Tax Credit in 2015, she will report that on the tax return that she files in 2016.
 - Although there is a requirement that married individuals file their taxes jointly to receive the Premium Tax Credit, there is an **exception** to this rule for survivors of domestic violence.
- The Health Insurance Marketplace will give information regarding her Premium Tax Credit to the IRS.
- Then the projected 2015 income and household size that she provided when she signed up for health insurance will be reconciled with her actual 2015 income and household size.

Eligibility for Other Benefits

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

- 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.

PA's Tax Forgiveness Credit

Survivors may be eligible to have some or all of their Pennsylvania state income taxes refunded.

- Income, filing status and number of dependent children are used to determine percentage of tax forgiven (up to 100%).

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How to Claim These Credits

A survivor must:

- File a federal and state tax return
 - ▣ Filers with children must file using IRS Form 1040 or 1040A, but **not** 1040 EZ.
 - ▣ The state form is PA-40.
- File a separate form for each tax credit.
- Survivors may also be able to file or correct returns for tax years prior to 2015.*

Recent changes in federal tax law may prevent certain immigrant survivors from claiming tax credits for previous years.

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The Cheat Sheet

The credit	Eligibility	Qualifying children	Maximum credit value
EITC	Earned income, but not more than \$53,247 for married couple with 3 kids	Under 19, under 24 if a full-time student, no age limit if disabled	\$6,242
CTC	\$3,000 in earned income for refund	Under age 17	\$1,000 per child
CDCTC	Work-related child care expenses	Under 13 (unless disabled)	\$2,100
PTC	Insurance through the Marketplace, income below 400% FPL	Under 26	Depends!
TFC	Eligibility income under a certain amount	Under 19, under 24 if a full-time student, no age limit if disabled	100% of state income taxes owed

Free Tax Preparation Help

- The IRS-sponsored VITA Program offers free tax help to low-to-moderate-income (generally, \$50,000 and below) people.
- The IRS also coordinates with AARP to offer tax help to people of low-to-moderate-income, with special attention to those age 60 and older, through a program called Tax-Aide.
- Individuals with income below \$60,000 can use the Free File Program with free tax prep software.

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Everyone Has Tax Rights To:

- See and understand the entire return (including supporting documents) before signing a joint return.
- Refuse to sign a joint return (married people do not have to file jointly!).
- Request an automatic 4-month extension of time to file (Form 4868).
- Get copies of prior year returns from the IRS (\$50 each; transcripts alternative)

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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) owe taxes.
- Want more information about something the survivor (and/or her spouse or former spouse) put on a tax return.

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Reasonable Cause Relief

- Available for Failure to File and Failure to Pay penalties (but not interest) when the failure was due to reasonable cause and not willful neglect.
- Facts and circumstances test
- Generally speaking, ignorance of the law, mistakes, or forgetfulness, by themselves, are not sufficient.

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Inability to Pay

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

- Note: There is not a valid joint return if the spouse's signature was forged.
- There is also no joint return if it was signed under duress.
 - Duress is narrower than abuse, however. The spouse 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.

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Inability to Pay

- If a taxpayer owes money to the IRS, they will try to collect it using liens and levies.
- There are collections alternatives available (get help 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)

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Exceptions to Joint Liability

There are times when the survivor can get out of the usual joint liability stemming from a jointly filed return.

- Injured Spouse
- Innocent Spouse

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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) and a MFJ return is filed, the IRS will ordinarily take all the refund, including the amount attributable to the taxpayer's withheld income, to satisfy the spouse's previous individual liabilities.
- Taxpayer can file a Form 8379 to stop this or get a refund of previously taken refunds (attach to Form 1040 or file separately).
- The statute of limitations for refund claims is: 3 years from when the return is filed or 2 years from the time the tax is paid (if later). If the latter, only the immediate past 2 years of payments can be refunded.

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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, the survivor didn't know about the spouse's side income or the factual circumstances that made an item not allowable as a deduction/credit. It wouldn't be fair to hold her liable, taking into account all the facts and circumstances.

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Innocent Spouse Relief Basics

2. The joint tax return understated the tax due, the survivor had no actual knowledge of the understatement, 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.

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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, the item was attributable to the nonrequesting spouse (with some exceptions including abuse and fraud), and it wouldn't be fair to hold the survivor responsible. Some factors include:

- Marital status
- Economic hardship
- Knowledge or reason to know (of item or underpayment)
- Nonrequesting spouse's legal obligation to pay (ex., under a divorce)
- Significant benefit to requesting spouse from the understatement or underpayment
- Compliance with income tax laws
- Mental/physical health

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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/survivor. 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/batterer will be notified of innocent spouse claim and will have a right to intervene in the requesting spouse's/survivor'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!

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Tips from the Tax Front Line

- The race to file and claim the kids (no matter who might actually be entitled to claim them)
- Identity theft – report to the IRS (Form 14039), the police, the FTC, and the 3 major credit bureaus
- If a client will get retirement funds pursuant to a divorce, and will need them soon, take them directly from the plan instead of first rolling over to an IRA, then taking a distribution (assuming no other 10% penalty exception, such as age 59 ½ or total disability)

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46

Resources

- For filing requirements, filing status, and tax credits, visit <http://www.irs.gov>
- For tax credits and tax credits outreach, visit <http://www.nwlc.org/loweryourtaxes>
- Visit www.eitcoutreach.org for information and materials on the federal EITC, the Child Tax Credit and the Premium Tax Credit.

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47

Free Tax Preparation Resources

- Call the IRS' hotline at **1-800-906-9887** or visit <http://irs.treasury.gov/freetaxprep/> 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.freefilealliance.org/>.

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48

For More Information About Health Insurance

- For information about the Premium Tax Credit, visit <http://nwlc.org/resources/premium-tax-credit-information-resources/>
- To shop for plans and enroll, visit www.healthcare.gov

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Low Income Taxpayer Clinics

- Low-Income Taxpayer Clinics can help low-income individuals (250% poverty guidelines) with direct representation when the IRS:
 - Says the survivor owes more than she thinks she does, or
 - Is trying to collect, and the survivor can't pay any or all of what is owed.
- There are 4 Low-Income Taxpayer Clinics in Pennsylvania. To locate one near you, visit <http://www.taxpayeradvocate.irs.gov/about/litc>.

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The Taxpayer Advocate Service


- The Taxpayer Advocate Service (TAS) can act as an internal ombudsman to help survivors when:
 - They are experiencing economic harm or are about to suffer economic harm.
 - They have experienced an unreasonable delay by the IRS when they've tried to resolve a tax account problem.
 - An 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 impaired the survivor's rights.
- To locate the TAS office nearest you, call **1-877-777-4778**.

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Additional Resources

- Webinar and Power Point
- NWLC's Checklist of Tax Issues
- NWLC's Family Tax Credits Flier
- Tax Credits Cheat Sheet
- PCADV Resource Guide
- Economic Justice Project Manager
 - Jenifer Thompson, jthompson@pcadv.org or 888-235-3425 x 132

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