

DV and the Law By Barbara Hart

Tax abuse

It is that time of year. Tax season. Batterers often seize upon the filing of tax returns as yet another opportunity for coercion and theft. One tax tactic is forcing abused wives to file joint tax returns. (This compulsion may include crimes of duress, assault, and terroristic threats.) Other battering husbands file joint returns without the knowledge or consent of their wives, while cohabiting with or separated from battered wives. (The use of another person's Social Security Number (SSN) without permission constitutes identity theft, and falsifying a signature is forgery.) Cashing refund checks by falsifying abused women's signatures is commonplace, and batterers thereafter invariably hide or spend the monies. (Forgery, "identity theft," and theft are among the crimes implicated.) Unmarried batterers may also compel battered women who file individually to surrender refunds. Those batterers who do not employ identity theft or coercion during the filing process, may compel battered women to surrender refunds. (Crimes of duress, fraud, assault, and theft are involved.)

Advocates for battered women can offer assistance to battered women to help them file informed tax returns and receive their tax refunds. Free income tax return preparation assistance is available at VITA and TCE sites, and from the IRS Taxpayer Assistance Centers. Call the IRS at 800-829-1040 for the location of these programs.

To protect against refund theft and identity theft, married battered women should potentially file separate tax returns from abusers. The risks of retaliatory violence by batterers for filing separately should be carefully examined and safety strategies employed to avert retaliation. Married battered women who file separately need to determine whether "married filing separately" or "head of household" is the correct filing status.

Identity theft and refund theft affect both married and unmarried battered women. When a battered woman files electronically, she may learn that her SSN was used without her authorization on a prior filing (in the current or former tax years). The IRS will not accept her return where there has been a prior filing. If this happens, a battered woman should file a tax return(s) on paper. On the face of each page of the paper return, she should write "DOMESTIC VIOLENCE (VODV) and IDENTITY THEFT." Further, she should staple a completed identity theft affidavit, Form 14039, to the return.

Battered women should provide IRS with a secure, confidential address on the filing and any subsequent correspondence. IRS will not give the address to a husband, his attorney or any third party. Address confidentiality programs are available in many states. P. O. Box addresses may be used. A change of address at the U.S. Postal Service or any private mail carrier should protect confidential survivor addresses. Other addresses that a survivor believes are secure and private may be used. An IRS change of address Form 8822 should be filed concurrent with any change of address, above. If a battered woman gives an IRS *power of attorney* to her lawyer, all correspondence to the battered woman will also be sent to the attorney.

IRS is increasingly responsive to DV. A new rule on retroactive "innocent spouse" relief is available at <http://www.irs.gov/Individuals/Tax-Information-for-Innocent-Spouses>. IRS workers are universally being trained on response to DV claims.

Battered women may be eligible for refunds on income tax withholding and for tax credits (for example, the EITC for separated mothers filing as "head of household," who live separate and apart from their husband for the last six months of the year and who pay more than half the cost of maintaining their home with their children or the single (never married, widowed, or divorced) person EITC for low wage childless workers.) Advocates should encourage battered women to seek the economic resources that may be derived from filing both federal and state 2012 tax returns. Battered women should OPEN all IRS correspondence. Many people dread mail from IRS other than that which appears to be a refund check. If a battered woman fears the contents, she should open IRS mail with her attorney or advocate, but "open it" she should. Most IRS problems can be resolved by prompt attention to issues they raise. It is highly recommended that survivors retain counsel—from legal aid or private counsel—in dealing with IRS issues. See <http://www.irs.gov/uac/Contact-a-Low-Income-Taxpayer-Clinic>.

For technical assistance on tax issues as well as other types of consumer advocacy for DV survivors, go to www.csaj.org or contact CSAJ at info@csaj.org. A project of the Center for Survivor Agency and Justice, the Consumer Rights for Domestic Violence Survivors Initiative, works to enhance consumer and economic advocacy for survivors of intimate partner violence by building the capacity of and building partnerships between domestic violence and consumer rights advocates.