

Help! My tax refund was taken to pay my student loan debt

Credit.com March 10, 2015, 5:00 AM

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Many people have already filed their taxes this year -- particularly those owed refunds. Because of rising [taxpayer identity theft](#), it's a smart idea for anyone to file quickly. However, some taxpayers are discovering the refund they thought was coming has instead been taken to pay their student loan debt. Here's a sample of questions recently sent to Credit.com:

- **From Amber:** Is there anything I can do to stop my whole federal refund from going to my student loans? ... I've just set up a payment plan, but I really need my refund this year.
- **From Peggy:** I was looking forward to my tax refund as it will help with bills and much needed things for the baby. It was accepted and ... now after digging around I found out they are sending it to the U.S. Dept. of Ed. for my student loans which I thought were in deferment. Now this is causing me and my kids a hardship but they refuse to send me the refund... What can I do to get my refund owed to me?
- **From Luis:** I heard that if your student loan is in default and they are intercepting your taxes, it goes towards interest of the loan. Getting your loan out of default you can then get the intercepted (money) back. Is this true? Is there some info on this?

First, some background: If you are in default on your federal student loans (which by definition means you are behind by 270 days or more), the Department of Education can take your tax refund using the Treasury Offset Program. This program authorizes federal payments such as tax refunds or Social Security income to be intercepted in whole or in part to pay debts owed to other federal agencies. There are some limited consumer protections, but debtors aren't always aware of them.

What can you do if your refund was seized?

We spoke with Jay Fleischman, a student loan and bankruptcy attorney, about what people can do. First, he said that by federal law, people who have student loans in default get a notice in advance warning that they are at risk of having any potential tax refund seized for student loan repayment. That notice contains instructions for a review of your loan information and how to avoid the offset.

If your refund is taken, you can still request a hearing. If it was taken in error, the money will be refunded. However, be aware that an error does not generally include not getting a notice; it typically would require that you be able to prove your student loan was not in default. (There is a case where you will likely get a refund; more about that in a moment.)

Fleischman said it's a good idea to adjust your withholdings whether you're subject to a tax refund offset or not. A large tax refund means you overpaid your taxes during the year, he notes. If you are in default on your federal student loans you probably need that money. But at this point, there is nothing you can do to change the overwithholding from last year. Still, revisiting how much you're having withheld for taxes is a smart move for anyone who got a large refund.

The bigger problem is how you are going to deal with the default on your student loans from now on. You'll want to get out of default and stay that way. Fortunately, there are [many payment options](#); you should be able to make one work for you. In some cases, income-based repayment payments can be set as low as \$0. And "if your circumstances are

dire and expected to remain so," [bankruptcy](#) and the discharge of student loans might be options, Fleischman said.

The one case in which you are likely to be able to recover the money is if you filed jointly with a spouse, and it was [his or her student loan](#) that was in default. "You may be able to make an injured spouse claim," said Fleischman.

For most, what is done is done. The best thing you can do is to look ahead. And if you haven't filed your tax return and expect a large refund, you may want to see what options you have to get out of default first.

Being in default on a student loan can not only squeeze your budget, it can hurt your credit and [cost you thousands of dollars in higher debt costs over a lifetime](#). (You can get [two of your credit scores for free](#), updated every month, on Credit.com to track your standing.)