

Sec. 12-732(a)-2. Claim for refund by nonobligated spouse

(a) Except as otherwise provided in § 12-732(b)-1 of this Part or in section 12-732 of the Connecticut General Statutes, if a joint Connecticut income tax return has been filed by an obligated spouse and a nonobligated spouse, and the tax imposed by the Income Tax Act has been overpaid, the nonobligated spouse may file a written claim for refund of the nonobligated spouse's share of the joint Connecticut income tax overpayment with the Commissioner within three years from the due date for which such overpayment was made, stating the specific grounds upon which such claim is founded. The nonobligated spouse's share of the joint Connecticut income tax overpayment shall be determined by subtracting the nonobligated spouse's share of the joint Connecticut income tax liability from the nonobligated spouse's contribution to the joint Connecticut income tax liability, provided, the nonobligated spouse's share of the joint Connecticut income tax overpayment may not exceed the joint overpayment.

(b) A nonobligated spouse may claim his or her share of the joint Connecticut income tax overpayment by attaching, as the cover page, a Form CT-8379 (Nonobligated Spouse Claim) to his or her tax return or amended tax return, as the case may be.

(c) For purposes of this section—

(1) "Nonobligated spouse" is the person who is married to, and has filed a joint Connecticut income tax return with, an obligated spouse.

(2) "Obligated spouse" means the person who is married to, and has filed a joint Connecticut income tax return with, a nonobligated spouse and (A) who owes a debt or obligation for which the Commissioner of Administrative Services is seeking reimbursement (and against which debt or obligation the obligated spouse's share of a joint Connecticut income tax overpayment may be credited by the Commissioner of Revenue Services in accordance with § 12-742-1) or (B) against whom an order of the superior court or a family support magistrate for support of a minor child or children has been issued and who owes past-due support of, in a case under the temporary assistance for needy families (T.A.N.F.) program pursuant to Title IV-A of the Social Security Act (42 USC 601 et seq., \$150 or more and, in a non-T.A.N.F. IV-D support case (as defined in Section 46b-231(b) of the Connecticut General Statutes), \$500 or more.

(3) "Nonobligated spouse's share of a joint Connecticut income tax liability" shall be determined by multiplying the joint Connecticut income tax liability by a fraction, the numerator of which is the nonobligated spouse's separate Connecticut income tax liability (as if a joint Connecticut income tax return had not been filed) and the denominator of which is the sum of each spouse's separate Connecticut income tax liability (as if a joint Connecticut income tax return had not been filed).

(4) "Nonobligated spouse's contribution to the joint Connecticut income tax liability" shall be determined by adding to such spouse's share of joint estimated Connecticut income tax payments, if any, and such spouse's share of joint tentative Connecticut income tax payments, if any, accompanying a Form CT-1040 EXT or Form CT-1127, the sum of (A) Connecticut income tax withheld from the nonobligated spouse's income and (B) separate estimated Connecticut income tax payments, if any, made by the nonobligated spouse.

(5) "Nonobligated spouse's share of joint estimated Connecticut income tax payments" shall be determined by multiplying the joint estimated Connecticut income tax payments

by a fraction, the numerator of which is the nonobligated spouse's separate Connecticut income tax liability (as if a joint Connecticut income tax return had not been filed) and the denominator of which is the sum of each spouse's separate Connecticut income tax liability (as if a joint Connecticut income tax return had not been filed).

(6) "Nonobligated spouse's share of joint tentative Connecticut income tax payments" shall be determined by multiplying the joint tentative Connecticut income tax payments by a fraction, the numerator of which is the nonobligated spouse's separate Connecticut income tax liability (as if a joint Connecticut income tax return had not been filed) and the denominator of which is the sum of each spouse's separate Connecticut income tax liability (as if a joint Connecticut income tax return had not been filed).

(7) "Tax return" means the Form CT-1040 or Form CT-1040NR/PY, as the case may be.

(8) "Amended tax return" means the Form CT-1040X.

(d) The following example illustrates the application of this section.

Example: A and B are married and filed a joint 1992 Form CT-1040 showing a Connecticut income tax liability of \$4,500 and payments made in connection therewith of \$4,800, so that there is a joint Connecticut income tax overpayment of \$300. A's Connecticut adjusted gross income of \$75,000 equaled his federal adjusted gross income. B's Connecticut adjusted gross income of \$25,000 equaled her federal adjusted gross income. A reported \$60,000 of wages, from which \$2,800 of Connecticut income tax was withheld, and \$15,000 of other income. B reported \$20,000 of wages, from which \$1,000 of Connecticut income tax was withheld, and \$5,000 of other income. A and B filed a joint Form CT-1040 ES and paid \$1,000 in estimated Connecticut income tax payments. A is an obligated spouse. B, the nonobligated spouse, claims her share of the joint Connecticut income tax overpayment by attaching, as the cover page, a Form CT-8379 to the joint 1992 Form CT-1040.

B's share of the joint Connecticut income tax liability is determined by multiplying the joint Connecticut income tax liability (\$4,500) by a fraction, the numerator of which is B's separate Connecticut income tax liability (as if B had not filed a joint Connecticut income tax return with A) of \$535.50 and the denominator of which is the sum of each spouse's separate Connecticut income tax liability (as if a joint Connecticut income tax return had not been filed) of \$3,910.50 (consisting of B's separate Connecticut income tax liability of \$535.50 and A's separate Connecticut income tax liability of \$3,375.00). Thus, B's share of the joint Connecticut income tax liability is \$616.22.

B's contribution to the joint Connecticut income tax liability is determined by adding to B's share of the joint estimated Connecticut income tax payments the \$1,000 of Connecticut income tax withheld from B's income. (Neither A nor B made separate estimated Connecticut income tax payments.) B's share of the joint estimated Connecticut income tax payments is determined by multiplying the joint estimated Connecticut income tax payments (\$1,000) by a fraction, the numerator of which is B's separate Connecticut income tax liability (as if a joint Connecticut income tax return had not been filed) of \$535.50 and the denominator of which is sum of each spouse's separate Connecticut income tax liability (as if a joint Connecticut income tax return had not been filed) of \$3,910.50. Thus, B's contribution to the joint Connecticut income tax liability is \$1,136.94 (consisting of the \$1,000 of Connecticut income tax withheld from B's income and the \$136.94 that is B's

share of the joint estimated Connecticut income tax payments).

Ordinarily, B's share of the joint Connecticut income tax overpayment would be determined by subtracting B's share of the joint Connecticut income tax liability (\$616.22) from B's contribution to the joint Connecticut income tax liability (\$1,136.94); however, B's share of the joint Connecticut income tax overpayment cannot exceed the joint overpayment (\$300). Therefore, B's share of the joint Connecticut income tax overpayment is \$300, and A's share is \$0.

(e) While this section pertains to Section 12-732(a) of the general statutes, for purposes of supplementary interpretation, as the phrase is used in Section 12-2 of the general statutes, the adoption of this section is authorized by Section 12-740(a) of the general statutes.

(Effective November 18, 1994; Amended March 8, 2006)