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|  | INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL | |
| | Chapter 12: Enforcement | Effective Date: 10/23/2023 |
| | Section 3.2: State Tax Refund Offset | Version: 1.3 Revision Date: 10/20/2023 |

BACKGROUND

Federal law requires the State Title IV-D agency to have procedures for enforcing a support order and collecting overdue support from State tax refunds.¹ The Child Support Bureau (CSB) is required to have procedures to ensure the amounts referred to the Indiana State Department of Revenue (SDOR) for offset are correct.²

POLICY

CSB will submit to SDOR for State tax offset any obligor with a total amount, among all of the obligor’s cases, of child support arrearage of \$150.00 or more.³ CSB will follow all federal and State law on the procedure for providing obligors with notice of the offset and distribution of the offset funds to the appropriate cases. When the offset has been found to be in error or exceeds the amount of overdue support, CSB shall promptly refund any excess amount to the obligor.⁴

REFERENCES

- [IC 6-8.1-9.5-3](#): Application for set off
- [IC 6-8.1-9.5-4](#): Determination of entitlement to refund; notification of claimant agency
- [IC 6-8.1-9.5-5](#): Notice by claimant agency of intent to have refund set off
- [IC 6-8.1-9.5-6](#): Contest of agency's claim; notice
- [IC 6-8.1-9.5-8](#): Certification of debt; payment to agency
- [465 IAC 1-1-13](#): State income tax refund intercept
- [CSB-AT-325](#): Removal of 15% Processing Fee for State Tax Intercepts
- [CSB-AT-336](#): ISETS Programming Changes for Tax Distribution
- [CSB-LTR-5-25-99](#): State Tax Offset Threshold Change
- [42 U.S.C. § 666](#): Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement
- [45 C.F.R. § 302.70](#): Required State laws
- [45 C.F.R. § 303.102](#): Collection of overdue support by State income tax refund offset

PROCEDURE

¹ 42 U.S.C. § 666(a)(3); 45 C.F.R. § 302.70(a)(3)

² 45 C.F.R. § 303.102(b)

³ CSB-LTR-5-29-99

⁴ 45 C.F.R. § 303.102(c)(2); 45 C.F.R. § 303.102(g)(2); 465 IAC 1-1-13

CSB notifies SDOR through the interface of the amount owed by the obligor.⁵ SDOR sends an electronic file through the interface which contains the names of obligors entitled to a State tax refund.⁶ Within 15 days of receiving that file from SDOR, CSB sends a notice of intent (NOI) to offset the State tax refund to the obligor.⁷ The obligor then has 30 days to contest the offset and request a hearing.⁸ The obligor may submit a written request for an administrative hearing to CSB. The only basis for contesting the State tax refund offset is that a “mistake of fact” has occurred. A mistake of fact, for the purposes of contesting the State tax refund offset is either an error in the amount of support due listed in the NOI or the identity of the obligor. For more information, see Chapter 12: Enforcement, Section 6: Administrative Hearings. After the initial referral, CSB is required to notify SDOR of any significant reductions in the amount that was referred for State tax offset.⁹ An obligor must be given advance notice of a State tax offset which includes the procedures to contest the offset.¹⁰ In the event of a joint tax return, the obligor’s spouse may apply for the spouse’s share of the refund with CSB.¹¹ After final determination of CSB’s claim to the offset, either as a result of a hearing or that the obligor does not contest the offset, CSB certifies to SDOR the amount owed subject to offset.¹²

SDOR electronically forwards the offset in the appropriate amount to CSB.¹³ State tax offset collections are posted to cases every week on Saturdays. Any State tax offset posted to an arrears subaccount is on a 29 day hold; however, the hold does not apply to any State tax offset posted to a current support subaccount.

State tax offset distribution follows the regular payment distribution rules on a case.¹⁴ When the obligor has more than one case, the distribution of the State tax offset is the following:

1. Current support for each of the cases. If the offset is not enough to pay current support in full for each of the cases, then the offset is prorated among the current support owed in each of the cases.
2. Arrears owed to the obligee in each of the cases. If the offset is not enough to pay the arrears owed to the obligee in full in each of the cases, then the offset is prorated among the arrears owed to the obligee in each of the cases.
3. Arrears owed to the State in each of the cases. If the offset is not enough to pay the arrears owed to the State in full in each of the cases, then the offset is prorated among the arrears owed to the State in each of the cases.¹⁵
4. If all subaccounts have been paid in full for each case, CSB shall promptly refund any excess offset amount to the obligor.¹⁶

When a State tax offset is received, the statewide child support system is programmed to only hold amounts up to the arrears balance at the time the funds are received. If the current monthly support has been satisfied and the arrearage is less than the intercept, all excess funds

⁵ IC 6-8.1-9.5-3

⁶ IC 6-8.1-9.5-4

⁷ IC 6-8.1-9.5-5

⁸ IC 6-8.1-9.5-6

⁹ 45 C.F.R. § 303.102(b)

¹⁰ 42 U.S.C. § 666(a)(3)(A); 45 C.F.R. § 303.102(c)(1); 45 C.F.R. § 303.102(e)

¹¹ 45 C.F.R. § 303.102(c)

¹² IC 6-8.1-9.5-8

¹³ IC 6-8.1-9.5-8

¹⁴ Chapter 14: Payment Processing

¹⁵ CSB-AT-336

¹⁶ 45 C.F.R. § 303.102(c)(2); 45 C.F.R. § 303.102(g)(2); 465 IAC 1-1-13

are directed to the Potential Payer Refund (PPR) report automatically. If there is a STOP on enforcement, a closed case, or a non-Title IV-D (NIVD) case, all of the offset will go to the PPR.

The PPR is sent to the Title IV-D Prosecutor's Office daily via the statewide child support system. Funds listed on the PPR automatically release to the obligor after 29 days on the PPR. The Title IV-D Prosecutor's Office may review the PPR report and request an adjustment to have funds applied to another Title IV-D case.

There is no fee for State tax offset.¹⁷ The entire amount of the offset is applied to the case.

FORMS AND TOOLS

1. [Example Offset Letters](#)

FREQUENTLY ASKED QUESTIONS

1. Q. If the obligor has child support cases in more than one county, which county is listed as the contact on the notice? Are the arrears in all of the counties on the notice or only the arrears in the county listed on the notice?

A. Only the first county in alphabetical order in which the obligor owes child support will appear on the notice. The total arrears in all of the obligor's cases in all counties will be stated on the notice.

RELATED INFORMATION

1. Chapter 14: Payment Processing

REVISION HISTORY

| Version | Date | Description of Revision |
|-------------|------------|---|
| Version 1 | 01/07/2019 | Final approved version |
| Version 1.1 | 05/18/2021 | Updated for consistent formatting and language |
| Version 1.2 | 02/28/2022 | Updated last sentence about PPR in accordance with procedure change |
| Version 1.3 | 10/23/2023 | Added FAQ for when obligor has cases in more than one county |

¹⁷ CSB-AT-325