

| | | |
|---|--|---|
|  | INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL | |
| | Chapter 12: Enforcement | Effective Date: 1/4/19 |
| | Section 3.1: Federal Tax Refund Offset | Version: 1.0 Revision Date: 1/4/19 |

BACKGROUND

Of the debts for which federal tax refunds may be intercepted, federal tax debts have the highest priority followed by past due child support.¹

POLICY

The state plan shall provide for procedures to collect past due support from federal tax refunds.² The past due support is eligible for federal tax offset regardless of whether the child(ren) that were the subject of the child support order are minors or emancipated.³

A case qualifies for federal tax offset if it is a Title IV-D case and:

1. There has been an assignment of rights and the past due support is not less than \$150.00;⁴ or
2. There is not an assignment of rights and the past due support is not less than \$500.00.⁵

The state may combine non-public assistance support amounts for multiple Title IV-D cases with the same obligor to reach the \$500.00 threshold. The state also may combine public assistance support amounts for multiple Title IV-D cases with the same obligor to reach the \$150.00 threshold. Assigned and unassigned support amounts cannot be combined to reach either of the thresholds.⁶

The Child Support Bureau (CSB) will hold federal tax offsets up to six (6) months from the time the notice was received.⁷ Offsets with a single return indicator are held for 29 days. Offsets with a joint return indicator can be held up to six (6) months in order for an injured spouse claim to be processed.

REFERENCES

- [CSB-AT-21](#): Additional Tax Intercept Information
- [CSB-AT-336](#): ISETS Programming Changes for Tax Distribution
- [CSB-AT-396](#): Injured Spouse and AO Fee Changes
- [42 U.S.C. § 664](#): Collection of past-due support from Federal tax refunds

¹ Federal Offset Program User Guide, p. 4-1

² 45 C.F.R. § 302.60(a)

³ 42 U.S.C. § 664(c)

⁴ 45 C.F.R. § 303.72(a)(1); 45 C.F.R. § 303.72(a)(2); Federal Offset Program User Guide, p. 1-3

⁵ 42 U.S.C. § 664(b)(2)(A); 45 C.F.R. § 303.72(a)(3)(i); 45 C.F.R. § 303.72(a)(3)(ii); Federal Offset Program User Guide, p. 1-3

⁶ 45 C.F.R. § 303.72(a)(3)(ii); Federal Offset Program User Guide, p. 1-3

⁷ 45 C.F.R. § 303.72(h)(5)

- [45 C.F.R. § 302.60](#): Collection of past-due support from federal tax refunds
- [45 C.F.R. § 303.72](#): Requests for collection of past-due support by federal tax refund offset
- [Federal Offset Program User Guide](#)
- [IRS Instructions for Form 8379](#) (Injured Spouse)

PROCEDURE

1. Submission of Cases

The CSB submits a weekly file to the Office of Child Support Enforcement (OCSE) including obligors' cases which qualify for federal tax offset due to past due support.⁸ OCSE forwards the requests for federal tax offset to the Treasury Department. The Treasury Department determines the amount of the refund due to the obligor and withholds an amount equal to the past due support.⁹

The CSB notifies OCSE of the deletion of, or a change, in the past due support balance.¹⁰ If there has been any change in the amount of an arrearage, the new amount is reported in the weekly file until the past due support balance is \$0.00. The amount of the refund received by CSB is the amount up to the most recently reported arrearage.

2. Notice to the Obligor

OCSE sends a pre-offset notice to the obligor the first time the obligor qualifies for federal tax offset that the amount of past due support will be referred to the Treasury Department for collection by federal tax offset.¹¹ The notice informs the obligor of the following:

- a. The right to contest the determination of the past due support;
- b. The right to an administrative review by submitting a request to the Title IV-D agency in the jurisdiction in which the child support order was issued;
- c. The procedures and timeframe to request an administrative review; and
- d. That, in the case of a joint return, the Treasury Department will notify the obligor's spouse of the steps to take to protect the spouse's share of the refund.¹²

The Treasury Department sends an offset notice to the obligor each year when the offset has been made and will also notify the spouse who filed a joint return with the obligor of the steps to take to secure the spouse's share of the refund.¹³ This notice advises the obligor to contact the appropriate agency to correct any errors or for questions about the offset.¹⁴

3. Contesting a Federal Tax Offset

⁸ 45 C.F.R. § 303.72(b)(1)

⁹ 42 U.S.C. § 664(a)(1); 42 U.S.C. § 664(a)(2)(A)

¹⁰ 45 C.F.R. § 303.72(d)(2)

¹¹ 42 U.S.C. § 664(a)(3)(A); 45 C.F.R. § 303.72(e)(1); Federal Offset Program User Guide, p. 3-1; Indiana has chosen for OCSE to send these notices.

¹² 42 U.S.C. § 664(a)(3)(A); 45 C.F.R. § 303.72(e)(1)

¹³ 42 U.S.C. § 664(a)(1); 42 U.S.C. § 664(a)(2)(A); 45 C.F.R. § 303.72(e)(2)

¹⁴ Federal Offset Program User Guide, p. 4-2

States must have a procedure to address complaints and refund money that is incorrectly offset.¹⁵ When an obligor requests an administrative review of a federal tax offset, the Title IV-D Prosecutor records the request and outcome of the request in the statewide child support system.¹⁶

When a Title IV-D Prosecutor receives a complaint from an obligor in response to either the pre-offset notice or the offset notice, the Title IV-D Prosecutor shall send a notice to the obligor and the custodial party of the time and place of the administrative review.¹⁷ If the administrative review results in the deletion of or change in the amount of past due support, the CSB must notify OCSE of the change.¹⁸ If the administrative review finds that the offset, which has already been received, exceeds the amount of past due support, the CSB must promptly refund the excess amount to the obligor.¹⁹ For more information regarding the administrative review process, please see Section 6 of this Chapter.

The Title IV-D Prosecutor refers any injured spouse questions to the IRS.²⁰

4. Federal Tax Offset Hold

A federal tax offset payment with a single return indicator is held for 29 days.²¹ This hold is to reduce the likelihood of a recall after the funds have been disbursed out to the custodial party.

A federal tax offset payment with a joint return indicator is held for five (5) months at the participant level.²² The five (5) month hold allows time for the injured spouse to file a claim with the Treasury Department. However, if the injured spouse claim has been received and fully processed by the Treasury Department before the federal tax offset is sent to the CSB, then the payment is not placed on the five (5) month hold.²³ After the five (5) month hold, the money posts to the case, but it is not disbursed for an additional 29 days.

While CSB holds a federal tax offset payment for a total of six (6) months, an injured spouse may have several years to file a claim with the Internal Revenue Service (IRS).²⁴ If the IRS processes and returns the injured spouse's portion of the refund to the injured spouse after CSB has received the tax offset, the IRS will recall the injured spouse's portion of the tax offset from CSB. If CSB has already disbursed the tax offset to the custodial party, then any future tax offsets received by CSB will be used to repay the IRS recall before being distributed to the obligor's case(s).

5. Distribution of the Federal Tax Offset

¹⁵ Federal Offset Program User Guide, p. 4-2

¹⁶ CSB-AT-336

¹⁷ 45 C.F.R. § 303.72(f)(1)

¹⁸ 45 C.F.R. § 303.72(f)(3)

¹⁹ 45 C.F.R. § 303.72(f)(4)

²⁰ 45 C.F.R. § 303.72(f)(2)

²¹ CSB-AT-21

²² 42 U.S.C. § 664(a)(3)(B); 45 C.F.R. § 303.72(h)(5); Federal Offset Program User Guide, p. 4-3; CSB-AT-396

²³ Federal Offset Program User Guide, p. 4-3

²⁴ IRS Instructions for Form 8379

The distribution of a federal tax offset follows a different process than normal payment distribution. Federal tax offset payment distribution is explained in the following table:

| Condition | Distribution Order |
|---|--|
| Current and/or former Temporary Assistance for Needy Families (TANF) case ²⁵ | <ol style="list-style-type: none"> 1. Applied to assigned arrears. 2. Applied to any past due support owed to the family. |
| Federal tax offset equal to or greater than arrears in multiple cases ²⁶ | <ol style="list-style-type: none"> 1. Applied to assigned arrears among all cases. 2. Applied to past due support owed to the family amount all cases. |
| Federal tax offset less than arrears in multiple cases ²⁷ | <ol style="list-style-type: none"> 1. Applied to assigned arrears owed pro rata among all the cases. 2. Applied to past due support owed to the family pro rata among all cases. |

A federal offset fee, determined by OCSE and the Treasury Department, shall be deducted from the offset amount.²⁸ The full amount of the offset must be credited to the obligor's payment record.²⁹

If the amount of the federal tax offset is in excess of the past due support, the excess must first go towards any former IRS recalls before being refunded by the CSB to the obligor.³⁰

6. Refund and Potential Payer Refund (PPR) Information

When a federal 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 arrearage is less than the intercept, all excess funds are directed to Potential Payer Refund (PPR) report automatically. If there is a STOP on enforcement, a closed case, or a non-Title IV-D case, all of the offset will go to the PPR.

The PPR is sent to the Title IV-D Prosecutor 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 may review the PPR report and request funds be released to the obligor sooner or request an adjustment to have funds applied to the case.

7. Special Considerations for Intergovernmental Cases

Only the initiating state is allowed to refer a qualifying case for federal tax offset. A responding state may verify the initiating state has submitted a case for federal tax offset

²⁵ CSB-AT-336

²⁶ CSB-AT-336

²⁷ CSB-AT-336

²⁸ 45 C.F.R. § 303.72(i)(1)

²⁹ 45 C.F.R. § 303.72(i)(1)

³⁰ 42 U.S.C. § 664(a)(3)(D); 45 C.F.R. § 303.72(h)(4)

in the State Services Portal (SSP). The initiating state referring the past due support for federal tax offset notifies, through CSENet, any other state involved in enforcing the support order when it receives an offset and, in the case of a joint tax return, when the offset is applied to the case.³¹

When the obligor requests an administrative review with the initiating state, the initiating state must notify the order issuing state of the request for administrative review and provide that state with all necessary information within ten (10) days of the request of the administrative review.³² Within 45 days of receipt of the notice and information from the initiating state, the order issuing state must:³³

- a. Send a notice to the obligor of the time and place of the administrative review;
- b. Send a notice to a custodial party of the time and place of the administrative review in a non-public assistance case or former public assistance case;
- c. Conduct a review; and
- d. Make a decision about the administrative review.

FORMS AND TOOLS

[Certifying Cases for Offsets Smart Guide](#)

FREQUENTLY ASKED QUESTIONS

1. Q. The federal tax offset did not pay the arrears in full but the non-custodial parent received part of the federal tax refund. Why was all of the refund not sent to CSB to apply to the arrears?
 - A. The amount of the arrears balance that is reported in the federal tax offset file is the amount owed at that specific time. The amount that is reported is the amount that the Treasury Department withholds from the refund and sends to CSB. If the arrears increased after the IRS processed the tax refund, then CSB will only receive the amount reported up until the point the IRS processed the tax refund. The Treasury Department will send to the obligor any tax refund in excess of the amount that was sent to CSB.

RELATED INFORMATION

[OCSE Federal Tax Refund Offset Program: Information for Families](#)

³¹ 45 C.F.R. § 303.72(d)(1)

³² 45 C.F.R. § 303.72(g)(2)

³³ 45 C.F.R. § 303.72(g)(3)