

	<b>INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL</b>	
	<b>Chapter 12: Enforcement</b>	<b>Effective Date: 02/28/2022</b>
	<b>Section 3.1: Federal Tax Refund Offset</b>	<b>Version: 1.2 Revision Date: 02/28/2022</b>

**BACKGROUND**

The State plan shall provide for procedures to collect past due support from federal tax refunds.<sup>1</sup> 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.<sup>2</sup>

**POLICY**

Of the debts for which federal tax refunds may be intercepted, federal tax debts have the highest priority followed by past due child support.<sup>3</sup>

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

1. There are State owed arrears (assigned), the threshold is a total of \$150.00 in arrears owed to the State among all of the obligor’s cases;<sup>4</sup> or
2. If there are not State owed arrears (unassigned), the threshold is a total of \$500.00 in arrears owed to all obligees among all of the obligor’s cases.<sup>5</sup>

The State may combine arrears amounts owed to the obligee for multiple Title IV-D cases with the same obligor to reach the \$500.00 threshold. The State also may combine public assistance amounts owed to the State for multiple Title IV-D cases with the same obligor to reach the \$150.00 threshold. Assigned (arrears owed to the State) and unassigned (arrears owed to the obligee) past due support amounts cannot be combined to reach either of the thresholds.<sup>6</sup>

The Child Support Bureau (CSB) may hold federal tax offsets up to six (6) months from the time the funds are received.<sup>7</sup> Offsets with a joint return indicator can be held up to six (6) months in order for an injured spouse claim to be processed. Offsets with single returns may also be held up to six (6) months if there is a potential for IRS recall. Offsets with a single return indicator are held for 29 days.

**REFERENCES**

- [CSB-AT-21](#): Additional Tax Intercept Information

<sup>1</sup> 45 C.F.R. § 302.60(a)

<sup>2</sup> Federal Offset Program User Guide, p. 4-1

<sup>3</sup> 42 U.S.C. § 664(c)

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

<sup>5</sup> 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

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

<sup>7</sup> 45 C.F.R. § 303.72(h)(5)

- [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
- [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

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.<sup>8</sup> 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 amount that is reported.<sup>9</sup>

CSB notifies OCSE of the deletion of, or a change, in the past due support balance.<sup>10</sup> 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.<sup>11</sup> 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 time frame 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.<sup>12</sup>

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.<sup>13</sup> This notice advises the

<sup>8</sup> 45 C.F.R. § 303.72(b)(1)

<sup>9</sup> 42 U.S.C. § 664(a)(1); 42 U.S.C. § 664(a)(2)(A)

<sup>10</sup> 45 C.F.R. § 303.72(d)(2)

<sup>11</sup> 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.

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

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

obligor to contact the appropriate agency to correct any errors or for questions about the offset.<sup>14</sup>

### 3. Contesting a Federal Tax Offset

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

When a Title IV-D Prosecutor's Office receives a complaint from an obligor in response to either the pre-offset notice or the offset notice, the Title IV-D Prosecutor's Office shall send a notice to the obligor and the obligee of the time and place of the administrative review.<sup>17</sup> If the administrative review results in the deletion of, or change in, the amount of past due support, CSB must notify OCSE of the change.<sup>18</sup> If the administrative review finds that the offset, which has already been received, exceeds the amount of past due support, CSB must promptly refund the excess amount to the obligor.<sup>19</sup>

The Title IV-D Prosecutor's Office refers any injured spouse questions to the IRS.<sup>20</sup>

### 4. Federal Tax Offset Hold

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

A federal tax offset payment with a joint return indicator is held for five (5) months at the participant level.<sup>22</sup> 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 CSB, then the payment is not placed on the five (5) month hold.<sup>23</sup> After the five (5) month hold, the money posts to the case, but it is not disbursed for an additional 29 days.

CSB holds a federal tax offset payment for a total of six (6) months, in the event an injured spouse files a claim with the Internal Revenue Service (IRS). 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 up to six (6) months of sending it to CSB. Once this six (6) month time period ends CSB is no longer required to return these funds to the IRS. If

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<sup>14</sup> Federal Offset Program User Guide, p. 4-2

<sup>15</sup> Federal Offset Program User Guide, p. 4-2

<sup>16</sup> CSB-AT-336

<sup>17</sup> 45 C.F.R. § 303.72(f)(1)

<sup>18</sup> 45 C.F.R. § 303.72(f)(3)

<sup>19</sup> 45 C.F.R. § 303.72(f)(4)

<sup>20</sup> 45 C.F.R. § 303.72(f)(2)

<sup>21</sup> CSB-AT-21

<sup>22</sup> 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

<sup>23</sup> Federal Offset Program User Guide, p. 4-3

CSB has already disbursed the tax offset to the obligee, 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).

All federal tax offset payments are subject to recall for only six (6) months of sending it to CSB. Once this six (6) month time period ends CSB is no longer required to return these funds to the IRS.

#### 5. Distribution of the Federal Tax Offset

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 <sup>24</sup>	<ol style="list-style-type: none"> <li>1. Applied to assigned arrears owed to the State.</li> <li>2. Applied to any past due support owed to the family.</li> </ol>
Federal tax offset equal to or greater than arrears in multiple cases <sup>25</sup>	<ol style="list-style-type: none"> <li>1. Applied to assigned arrears owed to the State among all cases.</li> <li>2. Applied to past due support owed to the family amount all cases.</li> </ol>
Federal tax offset less than arrears in multiple cases <sup>26</sup>	<ol style="list-style-type: none"> <li>1. Applied to assigned arrears owed to the State pro rata among all the cases.</li> <li>2. Applied to past due support owed to the family pro rata among all cases.</li> </ol>

A federal offset fee, determined by OCSE and the Treasury Department, shall be deducted from the offset amount.<sup>27</sup> The full amount of the offset must be credited to the obligor's payment record.<sup>28</sup> If the offset is \$50.00 or less, CSB will not deduct this fee.

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 CSB to the obligor.<sup>29</sup> For more information, please see Chapter 14: Payment Processing, Section 3: Distribution and Disbursement.

#### 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 the Potential Payer

<sup>24</sup> CSB-AT-336

<sup>25</sup> CSB-AT-336

<sup>26</sup> CSB-AT-336

<sup>27</sup> 45 C.F.R. § 303.72(i)(1)

<sup>28</sup> 45 C.F.R. § 303.72(i)(1)

<sup>29</sup> 42 U.S.C. § 664(a)(3)(D); 45 C.F.R. § 303.72(h)(4)

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.

## 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 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.<sup>30</sup>

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.<sup>31</sup> Within 45 days of receipt of the notice and information from the initiating State, the order issuing State must:<sup>32</sup>

- a. Send a notice to the obligor of the time and place of the administrative review;
- b. Send a notice to the obligee 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

### 1. [Example Offset Letters](#)

## FREQUENTLY ASKED QUESTIONS

1. Q. The federal tax offset did not pay the arrears in full but the obligor 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.

<sup>30</sup> 45 C.F.R. § 303.72(d)(1)

<sup>31</sup> 45 C.F.R. § 303.72(g)(2)

<sup>32</sup> 45 C.F.R. § 303.72(g)(3)

<b>RELATED INFORMATION</b>
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N/A

<b>REVISION HISTORY</b>
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<b>Version</b>	<b>Date</b>	<b>Description of Revision</b>
Version 1	01/14/2019	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.