

## **Offset and Collections Presentation**

Government Practice CLE

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### **I. Overview**

### **II. Background and History**

In the early 1970's, the Department of Revenue held income tax refunds for liabilities owed to the Department. In the late 1970's, income tax refunds were allowed to be held for other state agencies. In 1989 the program expanded to payments issued to vendors. The program continued through the years, switching departments in 2003 when the Finance section of the Department of Revenue and Finance was absorbed into the Department of Administrative Services (along with the Department of General Services, and Department of Personnel). The new home for the Offset Program became the State Accounting Enterprise.

In 2005, a pilot project brought other branches of Iowa government into the Offset Program. The pilot project included up to five pilot agencies to be selected from interested cities, counties, and municipal utilities or community colleges. In 2006 this pilot project was deemed a success and the Offset Program was allowed to expand, bringing in more than \$39.7 million for offsetting agencies during Fiscal Years 2007 and 2008.

In 2010, the legislature made a number of additional changes to the State Debt Collection statutes. Some of the new provisions include:

- 1) Court debt moved up to third priority on the order of offset list described in Iowa Code section 8A.504. Only child support recovery and foster care recovery have a higher priority.
- 2) County Treasurers now have the authority to collect the full amount of any tax debt from a taxpayer whose vehicle registration has been blocked due to outstanding tax liability. The County Treasurer will collect the full amount of tax due and remit that amount to the Department of Revenue.
- 3) The CCU of the Department of Revenue is now able to establish payment plans with individuals owing court debt for the purpose of releasing a vehicle registration suspension of such individuals.
- 4) The Department of Revenue can subpoena the records of public and private utility companies for the purpose of performing a data match to identify obligor telephone numbers and addresses.
- 5) Any county in which court debt collections fall below \$25,000 annually will no longer be eligible to participate in the County Attorney Debt Settlement Program.
- 6) The Judicial Branch must refer most delinquent court debt to the CCU for a period of 1 year.
- 7) The CCU only has 60 days to collect the court debt if the applicable County Attorney is participating in the County Attorney Debt Settlement Program and the CCU has not entered into a payment agreement with the debtor. After 60 days, the debt will revert to the County Attorney. After one year, debt placed with CCU that has not been assigned to a County Attorney or has not

been set up under a repayment agreement will be referred by the Judicial Branch to a private collection agency.

In 2010, the legislature also created the Office of the State Debt Coordinator and the Debt Settlement Program (Chapter 421C). However, the position of State Debt Coordinator has not been filled.

### III. Court Debt

In the fall of 2011, the Supreme Court announced new and expanded programs to recover court debt in Iowa. The newest fine collection program involves a private, third-party collection agency. Following a competitive bid process, the judicial branch contracted with a Kansas City law firm — Linebarger, Goggan, Blair and Sampson LLP — to collect court fines and fees that have been unpaid for more than a year. The law firm is authorized by state law to add 25 percent to the amount owed for their fees. The firm has offices throughout the country and has worked with more than 2,000 cities, counties, states, and federal agencies to collect more than a billion dollars in overdue bills since 1976.

In addition to the new third-party collection agency and the expanded role of county treasurers, the court also highlighted its enhanced efforts to uncover old debt which remains unpaid. The court also pointed out that it collects millions in fees and fines. In fiscal year 2011 (FY2011) the judicial branch collected approximately \$163 million. Of this amount, \$146 million went to the State's general fund and nearly \$17 million went to county and city governments.

The court reviewed a number of mechanisms available for collecting unpaid fines and fees:

**Notices:** At the beginning of the collections process, county clerks send several warning notices to people who owe fines and fees in criminal cases. The notices state the amount of fines and fees owed. If the amount owed is not paid within the time period stated in the notice, the debt is placed into one or more of the collection avenues below.

**CCU:** If the debt is not paid in 30 days, the courts refer the case to the Centralized Collections Unit (CCU) of the Iowa Department of Revenue, which serves as the State's collection agency. The CCU pursues debtors through letters, telephone calls, and other strategies designed to motivate people to pay. In FY 2011, the CCU collected \$25.4 million in unpaid fines and court fees. The CCU pursues debt for 12 months before it is transferred to the third-party collection agency.

**County Attorneys:** Forty-six county attorneys use wage assignment, garnishments, and installment plans among other techniques to pursue debt. The County Attorney Collection Program brought in more than \$10 million in FY 2011.

**Income Tax Offsets:** The Department of Revenue withholds state income tax refunds of debtors until the bill is paid. In FY 2011, more than \$9 million was collected through tax offsets.

**Licenses:** The Department of Transportation may suspend driver's licenses. (Not sure if this is being done). The State can also suspend or revoke a debtor's professional license as well as a debtor's hunting or fishing license for unpaid court debt.

#### IV. State of Iowa Offset Program – Department of Administrative Services

##### A. Authorized by Iowa Code section 8A.504

8A.504 Setoff procedures.

1. 1. Definitions. As used in this section, unless the context otherwise requires:

a. “Collection entity” means the department of administrative services and any other state agency that maintains a separate accounting system and elects to establish a debt collection setoff procedure for collection of debts owed to the state or its agencies.

b. “Person” does not include a state agency.

c. “Qualifying debt” includes, but is not limited to, the following:

(1) Any debt, which is assigned to the department of human services, or which is owed to the department of human services for unpaid premiums under section 249A.3, subsection 2, paragraph “a”, subparagraph (1), or section 249J.8, subsection 1, or which the child support recovery unit is otherwise attempting to collect, or which the foster care recovery unit of the department of human services is attempting to collect on behalf of a child receiving foster care provided by the department of human services.

(2) An amount that is due because of a default on a guaranteed student or parental loan under chapter 261.

(3) Any debt which is in the form of a liquidated sum due, owing, and payable to the clerk of the district court.

d. “State agency” means a board, commission, department, including the department of administrative services, or other administrative office or unit of the state of Iowa or any other state entity reported in the Iowa comprehensive annual financial report, or a political subdivision of the state, or an office or unit of a political subdivision. “State agency” does include the clerk of the district court as it relates to the collection of a qualifying debt. “State agency” does not include the general assembly or the governor.

2. Setoff procedure. The collection entity shall establish and maintain a procedure to set off against any claim owed to a person by a state agency any liability of that person owed to a state agency, a support debt being enforced by the child support recovery unit pursuant to chapter 252B, or such other qualifying debt. The procedure shall only apply when at the discretion of the director it is feasible. The procedure shall meet the following conditions:

a. Before setoff, a person’s liability to a state agency and the person’s claim on a state agency shall be in the form of a liquidated sum due, owing, and payable.

b. Before setoff, the state agency shall obtain and forward to the collection entity the full name and social security number of the person liable to it or to whom a claim is owing who is a natural person. If the person is not a natural person, before setoff, the state agency shall forward to the

collection entity the information concerning the person as the collection entity shall, by rule, require. The collection entity shall cooperate with other state agencies in the exchange of information relevant to the identification of persons liable to or claimants of state agencies. However, the collection entity shall provide only relevant information required by a state agency. The information shall be held in confidence and used for the purpose of setoff only. Section 422.72, subsection 1, does not apply to this paragraph.

c. Before setoff, a state agency shall, at least annually, submit to the collection entity the information required by paragraph “b” along with the amount of each person’s liability to and the amount of each claim on the state agency. The collection entity may, by rule, require more frequent submissions.

d. Before setoff, the amount of a person’s claim on a state agency and the amount of a person’s liability to a state agency shall constitute a minimum amount set by rule of the collection entity.

e. Upon submission of an allegation of liability by a state agency, the collection entity shall notify the state agency whether the person allegedly liable is entitled to payment from a state agency, and, if so entitled, shall notify the state agency of the amount of the person’s entitlement and of the person’s last address known to the collection entity. Section 422.72, subsection 1, does not apply to this paragraph.

f. (1) Upon notice of entitlement to a payment, the state agency shall send written notification to that person of the state agency’s assertion of its rights to all or a portion of the payment and of the state agency’s entitlement to recover the liability through the setoff procedure, the basis of the assertion, the opportunity to request that a jointly or commonly owned right to payment be divided among owners, and the person’s opportunity to give written notice of intent to contest the amount of the allegation. The state agency shall send a copy of the notice to the collection entity. A state agency subject to chapter 17A shall give notice, conduct hearings, and allow appeals in conformity with chapter 17A.

(2) However, upon submission of an allegation of the liability of a person which is owing and payable to the clerk of the district court and upon the determination by the collection entity that the person allegedly liable is entitled to payment from a state agency, the collection entity shall send written notification to the person which states the assertion by the clerk of the district court of rights to all or a portion of the payment, the clerk’s entitlement to recover the liability through the setoff procedure, the basis of the assertions, the person’s opportunity to request within fifteen days of the mailing of the notice that the collection entity divide a jointly or commonly owned right to payment between owners, the opportunity to contest the liability to the clerk by written application to the clerk within fifteen days of the mailing of the notice, and the person’s opportunity to contest the collection entity’s setoff procedure.

g. Upon the timely request of a person liable to a state agency or of the spouse of that person and upon receipt of the full name and social security number of the person’s spouse, a state agency shall notify the collection entity of the request to divide a jointly or commonly owned right to payment. Any jointly or commonly owned right to payment is rebuttably presumed to be owned in equal portions by its joint or common owners.

h. The collection entity shall, after the state agency has sent notice to the person liable or, if the liability is owing and payable to the clerk of the district court, the collection entity has sent notice to the person liable, set off the amount owed to the agency against any amount which a state agency owes that person. The collection entity shall refund any balance of the amount to the person. The collection entity shall periodically transfer amounts set off to the state agencies entitled to them. If a person liable to a state agency gives written notice of intent to contest an allegation, a state agency shall hold a refund or rebate until final disposition of the allegation. Upon completion of the setoff, a state agency shall notify in writing the person who was liable or, if the liability is owing and payable to the clerk of the district court, shall comply with the procedures as provided in paragraph “j”.

i. The department of revenue’s existing right to credit against tax due or to become due under section 422.73 is not to be impaired by a right granted to or a duty imposed upon the collection entity or other state agency by this section. This section is not intended to impose upon the collection entity or the department of revenue any additional requirement of notice, hearing, or appeal concerning the right to credit against tax due under section 422.73.

j. If the alleged liability is owing and payable to the clerk of the district court and setoff as provided in this section is sought, all of the following shall apply:

(1) The judicial branch shall prescribe procedures to permit a person to contest the amount of the person’s liability to the clerk of the district court.

(2) The collection entity shall, except for the procedures described in subparagraph (1), prescribe any other applicable procedures concerning setoff as provided in this subsection.

(3) Upon completion of the setoff, the collection entity shall file, at least monthly, with the clerk of the district court a notice of satisfaction of each obligation to the full extent of all moneys collected in satisfaction of the obligation. The clerk shall record the notice and enter a satisfaction for the amounts collected and a separate written notice is not required.

k. If the alleged liability is owing and payable to a community college and setoff pursuant to this section is sought, both of the following shall apply:

(1) In addition to satisfying other applicable setoff procedures established under this subsection, the community college shall prescribe procedures to permit a person to contest the amount of the person’s liability to the community college. Such procedures shall be consistent with and ensure the protection of the person’s right of due process under Iowa law.

(2) The collection entity shall, except for the procedures prescribed pursuant to subparagraph (1), prescribe any other applicable procedures concerning setoff as provided in this subsection.

3. In the case of multiple claims to payments filed under this section, priority shall be given to claims filed by the child support recovery unit or the foster care recovery unit, next priority shall be given to claims filed by the clerk of the district court, next priority shall be given to claims filed by the college student aid commission, next priority shall be given to claims filed by the investigations division of the department of inspections and appeals, and last priority shall be given to claims filed by other state agencies. In the case of multiple claims in which the priority

is not otherwise provided by this subsection, priority shall be determined in accordance with rules to be established by the director.

4. The director shall have the authority to enter into reciprocal agreements with the departments of revenue of other states that have enacted legislation that is substantially equivalent to the setoff procedure provided in this section for the recovery of an amount due because of a default on a guaranteed student or parental loan under chapter 261. A reciprocal agreement shall also be approved by the college student aid commission. The agreement shall authorize the department to provide by rule for the setoff of state income tax refunds or rebates of defaulters from states with which Iowa has a reciprocal agreement and to provide for sending lists of names of Iowa defaulters to the states with which Iowa has a reciprocal agreement for setoff of that state's income tax refunds.

5. Under substantive rules established by the director, the department shall seek reimbursement from other state agencies to recover its costs for setting off liabilities.

2003 Acts, ch 145, §86, 286; 2006 Acts, ch 1072, §4; 2008 Acts, ch 1032, §201; 2010 Acts, ch 1146, §1; 2010 Acts, ch 1182, §2, 36; 2011 Acts, ch 120, §1

Referred to in §8A.323, 8A.502, 96.11, 99D.2, 99D.28, 99F.1, 99F.19, 99G.38, 217.34, 234.8, 252B.5, 261.37, 321.11A, 321.31, 321.40, 421C.2, 422.12D, 422.12K, 422.12L, 422.20, 422.72, 456A.16, 602.8102(58A), 602.8107, 642.2

## **B. State of Iowa Offset Program**

### **What is the Offset Program?**

1. This program is a successful method used by the State of Iowa to collect money owed to the State under Chapter 8A.504 of the Code of Iowa. The Iowa Code directs the Department of Administrative Services, State Accounting Enterprise (DAS/SAE) to establish and maintain a procedure to collect against any claim owed to a person by a state agency, and then apply the money owed to the person against the debt owed by the person to the State of Iowa.

**How much money has been collected through this program?**

During Fiscal Year 2008 all applications of the Offset Program brought in \$22.5 million for over 175 different agencies, bureaus and political subdivisions of state government in Iowa. This amount reflects an increase of more than \$5 million over the amount collected during Fiscal Year 2007. The agencies and bureaus of state government that participated include child support recovery efforts, courts, Regents institutions and many others.

**What is a "state agency"?**

"State agency" means a board, commission, department, including the department of administrative services, or other administrative office or unit of the state of Iowa or any other state entity reported in the Iowa comprehensive annual financial report, or a political subdivision of the state, or an office or unit of a political subdivision. "State agency" does include the clerk of the district court as it relates to the collection of a qualifying debt. "State agency" does not include the general assembly or the governor.

**How does an agency participate in the Offset Program?**

A signed agreement between the Director of the offsetting agency (state agency or political subdivision that is owed money) and the Director of the Department of Administrative Services is required.

**How is this implemented?**

Before an individual or company is placed on the Offset Program, the offsetting agency must make a good faith attempt to collect the debt from the entity. The attempts to collect should be documented and retained by the offsetting agency. If resolution does not occur, and the debt is at least \$50.00, the agency may then include the liability with the Income Offsets Program.

**When a company or individual is participating in the Offset Program, where does the match come from?**

A few examples of where matches can come from are tax refunds, Iowa Lottery winnings, and payments to vendors for goods and services.

**What are the benefits of the Offset Program?**

Citizens, customers and agencies of the State of Iowa are able to receive funds owed to them that they might not otherwise have a means of collecting.

**Who do I contact for more information?**

<u>Offsets</u>	<u>Phone Number</u>
<u>Lynn</u>	<u>515-281-5459</u>
<u>Martha</u>	<u>515-281-5202</u>
<u>Peggy</u>	<u>515-281-6649</u>

**How do I send an email to the Offset Program?**

We welcome inquiries about our program. Send your email to the Offset Program and we will be happy to answer your questions.

**C. Offset Program – Held Payments**



This program is a method used by the State of Iowa to collect money owed to the State under Chapter 8A.504 of the Code of Iowa. The Iowa Code directs the Department of Administrative Services, State Accounting Enterprise to establish and maintain a procedure to collect against any claim owed to a person by a state agency, and then apply the money owed to the person against the debt owed by the person to the State of Iowa.

### **Payments Held by the Federal Government**

Contact the IRS at **1-800-829-1040** or visit the IRS website "**Where's My Refund?**" for your refund status if the Federal Government has offset (held) your federal tax refund. The Offset Program staff is not provided any information by the Federal Government and is unable to respond to your requests.

### **Agency Contact Information**

If you received a letter of notification that your money has been offset, the offsetting Agency was identified in your letter.

### **Frequently Asked Questions - FAQs**

If your money has been offset (held), the Frequently Asked Questions below will help you sort out what you need to know and who to contact.

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### **Frequently Asked Questions - Held Payments**

1. Can the Offset Program hold my federal tax refund?
2. How do I find out who is holding my money and why?
3. I want to contact the agency that held my money. How?
4. Does the Offset Program staff know why my money is being held?
5. I worked out a Payment Plan with the agency that held my money. Is it true the Offset Program staff has to release my money now that I've told them?
6. I want to appeal my debt. Who do I contact?
7. When should I call Offset Program staff instead of the agency that held my money?
8. What is a "state agency"?

9. I don't agree with the method of this program. Who do I tell?

**Q Can the Offset Program hold my federal tax refund?**

**1:**

No, the Offset Program does not hold federal income tax refunds. If your federal tax refund has been held, contact the IRS at **1-800-829-1040** or go to the IRS web site "Where's My Refund?" for more information.

**A**  
**1:**

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**Q I want to contact the agency that held my money. How?**

**2:**

A listing of agency information is located at this web site:  
[das.sae.iowa.gov/offsets/agencycontacts.html](http://das.sae.iowa.gov/offsets/agencycontacts.html)

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**2:**

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**Q How do I find out who is holding my money and why?**

**3:**

If your money has been held, then you received a letter containing the name of the agency that held your money. **You must contact that agency to find out why you owe the money.** The Offset Program staff does **not** have access to the details of the debt and cannot answer your questions about why you owe money. They also **cannot** change your status within the program. If you want to contact the agency that held your money, their information is located on our "Agency Contacts" web page.

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**3:**

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**Q Does the Offset Program staff know why my money is being held?**

**4:**

**NO.** The Offset Program staff does **not** know why your money is being held. The *only* information they received from the offsetting agency was your social security number or federal tax ID number and the amount of money owed. **No other information was provided to them.** You must contact the agency identified in your notification letter to find out why your money is

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**4:**

being held.

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**Q 5: I worked out a Payment Plan with the agency that held my money. Is it true the Offset Program staff has to release my money now that I have told them ?**

**A 5: Because it is the offsetting agency's determination to hold or release money that matched on the Offset Program, it is released only when that agency contacts the Offset Program staff and instructs them to release your money. The Offset Program staff has no authority to release your funds unless authorized to do so by the offsetting agency. Because of that, the offsetting agency you have a Payment Plan with must contact the Offset Program staff to release your funds, not the person who had money held.**

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**Q 6: I want to appeal my debt. Who do I contact?**

**A 6: If you want to appeal your debt or the amount of your debt, you must contact the agency that placed you with the program. Their agency name is located in the letter you received stating your money was being held. If you need agency contact information, it is located on the "Agency Contacts" web page. The Offset Program Staff does not have the authority to resolve these issues.**

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**Q 7: When should I contact the Offset Program staff instead of the agency that held my money?**

**There are two specific reasons why you should call the Offset Program Staff:**

**A 7: If you filed a joint or combined tax return and your money has been held. If you wish to request a division of your tax refund, you should contact the agency that held your money or the the Offset Program staff.**

**OR**

You received a **Notice of Held Warrant** instead of a payment. In this case, you can contact the Offset Program staff by either email or by phone to find out what agency is holding your money. The Offset Program Staff **cannot** answer your questions about why the payment was held because they do not receive that information, but they are able to direct you to the offsetting agency. The offsetting agency (the agency that held your money) will be able to tell you how much you owe and why you owe it. The agency will then contact the Offset Program staff with instructions on how to process the held payment.

When leaving a telephone message for the Offset Program staff, state your name, telephone number including area code, and your social security number or federal tax ID number. *Speak clearly and slowly* so your information will be accurately understood.

Because email is not considered secure, do not include your social security number or federal tax ID number when emailing the Offset Program staff. To send an email, click here: [Offset Program Staff](#).

**The Offset Program staff is unable to change your status in the program or to access information about why you owe money. You must contact the agency that held your money to discuss these issues.**

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**Q** **What is a "state agency"?**

**8:**

"State agency" means a board, commission, department, including the department of administrative services, or other administrative office or unit of the state of Iowa or any other state entity reported in the Iowa comprehensive annual financial report, or a political subdivision of the state,

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**8:**

or an office or unit of a political subdivision. "State agency" does include the clerk of the district court as it relates to the collection of a qualifying debt. "State agency" does not include the general assembly or the governor.

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**Q** **I don't agree with the method of this program. Who do I tell?**

**9:**

**A** If you want to contest the validity of the right to offset, you can file a written notice of protest. Mail your letter to:

DAS - Legal Counsel, 3rd Fl  
Hoover State Office Building  
Des Moines, Iowa 50319

The authorization for this program is located in Chapter 8A.504 of the Code of Iowa.

## **V. Iowa Department of Revenue**

### **A. Your Rights During Audit, Billing and Collection Activities Initiated by the Iowa Department of Revenue**

Iowa taxpayers have certain rights during audit, billing, and collection activities initiated by the Iowa Department of Revenue (the Department). This brochure informs you of those rights and of our obligations to you.

#### **Courtesy and Respect**

You have a right to be treated with courtesy and respect by our employees. If you feel it is not the case, please contact the employee's supervisor.

#### **Confidentiality**

All tax returns and attachments filed with the Department are protected by state confidentiality laws and can be used only for tax administration purposes. They can be released to other persons or agencies only as specifically allowed by law. Protest files, however, are open for public inspection unless you petition the Department, and an Administrative Law Judge or the Director of Revenue issues an order to delete identifying details of the case.

## **AUDIT**

### **If Your Return or Failure to File Is Questioned**

If we question your return, we will work with you to assure that all relevant information is carefully considered before a decision is made. Procedures listed below with respect to tax returns are also applicable if we question your failure to file a tax return.

If you are selected for an Iowa tax audit or examination, you should know how the process works and what your rights are at each stage. Audit selection does not suggest that the Department suspects wrongdoing. Our inquiry may result in more tax or, in some cases, a refund.

## **Representation and Recordings**

You can represent yourself or, with proper written authorization, have someone represent you or accompany you. You can make an audio recording of your interview(s) with our auditors, provided you give 10 days notice of your intent to record the proceedings. You must provide your own recording equipment. If we choose to record an interview, we will notify you in advance and, for a fee, provide you with a copy of the recording.

## **Examination by Mail**

Many examinations and inquiries are handled entirely by mail. This brochure may be accompanied by a request for information or a notice of additional tax due based on an office examination of the return you filed. An explanation of changes made to your return is included with any notice of additional tax due. If you agree with the changes, simply remit the amount you owe with the top portion of the notice form you received and return it in the envelope provided.

If you disagree with the changes made to your return, please notify us in writing immediately, explaining why you disagree. Include all important documents or facts you wish to have considered. If you feel the issue cannot be settled by mail, you have the right to schedule a personal interview.

If your tax matter is not settled to your satisfaction, you must file a formal appeal within 60 days of our Notice of Assessment. Please refer to the Appeal Rights section of this brochure for more information.

If you don't understand the notice you received, please call us at the number listed on the notice itself.

## **Examination by Interview**

If we notify you that we will conduct our examination through a personal interview, or if you request such an interview, you have the right to ask that the examination take place at a reasonable time and place that is convenient for both you and the Department. We will try to accommodate your schedule, but the Department makes the final determination of how, when and where the examination takes place.

If you disagree with the final report, you may discuss your case further with the auditor's supervisor. If you are still not able to reach a satisfactory settlement, you must file a formal appeal

within 60 days of our Notice of Assessment. Please refer to the Appeal Rights section of this brochure for more information.

### **Field Audits**

Field audits are normally conducted at the taxpayer's place of business during regular business hours. A pre-audit conference will be conducted, during which the auditor will inform you of the types of records needed for review, audit procedures, method of conducting the audit and possible audit issues. When the audit is complete, a post-audit conference will give both parties the opportunity to discuss the audit listings, issues still in dispute, audit results and protest procedures. If you disagree with the audit results, you have the right to contact the audit manager to request an audit resolution conference. If the issues are still unresolved, you should follow the formal appeal process described in the section below.

## **APPEAL RIGHTS**

### **Formal Appeal**

For the purpose of this section the words "appeal" and "protest" are used interchangeably. You must file a formal Appeal in writing within 60 days of issuance of the Notice of Assessment or refund denial. If you fail to timely appeal an assessment issued, you may make a payment of the proper amount and file a timely refund claim. When the refund is denied, then you can file an Appeal within 60 days of the refund denial. The Appeal or Protest must be prepared according to Chapter 7 of our Department's Rules and Regulations (Practice and Procedure). To obtain a copy of these rules and more information about the appeal process, either call our Hearings Office at (515) 281-3204 or refer to information on the Department Web site at

<http://www.state.ia.us/government/df/taxlaw/IAProtestPackage.pdf>.

## **The Appeal Process**

Formal Appeals generally go through the following process. First, our Hearings Section reviews the written Appeal or Protest. You will be requested to correct the Protest within 30 days if the Appeal information is incomplete. Unless otherwise waived by you, the Department will initiate informal procedures to resolve the matter. These procedures include but are not limited to requests for information, informal conferences, and settlements. If the matter is still not resolved, we will, unless we waive further informal procedures, send you a Letter of Findings. You have 30 days to respond to the letter. If your response indicates disagreement with the Letter of Findings, the Department then has 30 days to file an Answer to your Protest with the Hearings Section. Failure to respond to the Letter of Findings or other requests in a timely manner may result in dismissal of your Appeal. After the Department files its Answer to your Protest, an Administrative Law Judge will issue a Notice of Hearing that sets the date, time and location for the hearing.

## **Taxpayer's Request for Hearing**

You or the Department can waive informal proceedings and make a written request to begin a contested case hearing at any time after a proper Appeal is filed. If a proper Appeal has been pending before the Department for six months, you can make a written request to begin a contested case proceeding and, if you do so, the department must file an Answer within 30 days of receipt of your request. If the Department fails to answer within the 30 day period, interest on an assessment is suspended from the time an Answer was required to be filed until the Department files an Answer.

## **The Hearing**

At the hearing an Administrative Law Judge hears testimony and accepts exhibits from both you and the Department. This hearing is similar to a court of law but is more informal. It is important that all relevant information be presented, because the record made at the hearing will be reviewed by the courts if your case is appealed to a higher level.



## **Expedited Hearing**

An expedited hearing can only be initiated by the Department. This procedure is used in cases involving small dollar amounts and no precedential value. Both you and the Department must agree not to appeal the administrative law judge's decision under the expedited hearing format. You do not ordinarily need to be represented by an attorney or accountant under this procedure.

## **Telephone Hearing**

Both you and the Department must agree to present the contested case through a telephone hearing. The telephone hearing is not appropriate, of course, for complex cases or those involving numerous exhibits.

## **Appeal Steps**

After the hearing, the Administrative Law Judge issues a proposed order. If you and the Department agree with the order, the matter is considered resolved.

If either party disagrees with the Judge's order, other appeal procedures are available. At this point, either party may appeal to the Director of the Iowa Department of Revenue for a decision. If you disagree with the Director's decision, you may appeal your case to the State Board of Tax Review. Although no new evidence can be brought before the Board, oral arguments are usually allowed.

If you accept the Board's decision, the matter is considered resolved. If you disagree, an Appeal may be made to the District Court. (Note: You also have the option - within certain time restrictions - to skip the appeal to the Director or the State Board of Tax Review and appeal directly to the District Court.)

Any District Court decision may be appealed to the Iowa Supreme Court.

## **Recovering Litigation Expenses**

You may be able to recover some of your administrative and litigation costs if an Order is entered in an administrative hearing or a court proceeding that is favorable to you. The Order must also find that the Department's position was substantially unjustified on most issues. You must have given the Department all the information necessary to resolve your case, and you must have requested recovery of those costs in your Protest.

## **COLLECTIONS**

### **Collection Procedures**

We will attempt to work with you to find a manner of payment. However, we are authorized to file tax liens against your real estate and personal property, preventing you from selling your property in most cases, and to take other action necessary to collect the Iowa tax debt.

### **Collection Activities**

Filing liens, garnishing wages, offset, levying against property and administrative wage assignments are the most common actions the Department uses to enforce tax billings. See Iowa Code §§ 421.17, 421.17A, 421.17B, and 422.26.

### **Liens**

If you fail to pay your taxes on time, we may file a lien against your property at any time in the county in which the property is located. A filed tax lien is effective for 10 years and can be extended in 10-year increments. After you have paid your taxes, we will release the lien on your property and stop all collection activity.

### **Payment Plans**

If you do not have sufficient cash or assets to pay your Iowa tax debt in full and have tried unsuccessfully to borrow the money, you may request a payment plan. We may require security and a financial statement from you before agreeing to a payment plan.

### **Property Levies**

We are authorized to levy against or seize your real estate or property (such as automobiles and bank accounts) to collect past due taxes, penalty and interest.

We will release a levy against your property as soon as you pay your Iowa tax liability. We may also release the levy if:

the release will help us collect the tax

we have agreed to a payment plan with you.

## **Wage Garnishments**

We may garnish your wages or file an administrative wage assignment requiring your employer to deduct up to 100 percent of your wages to pay your past due taxes.

## **Offset Against Tax Liability**

We are authorized to offset any refund owed to you by any state agency against your Iowa tax debt.

## **Collection Agencies**

We may use private collection agencies to help collect unpaid taxes.

## **Jeopardy Assessments**

If we believe that collection of your tax debt will be jeopardized by delay, we can issue a jeopardy assessment and immediately proceed to collect the tax. If you receive a jeopardy assessment, you should follow the same appeal procedures that exist for appeals of regular assessments.

## **License Sanctions**

If you have an outstanding liability, we may send a Certificate of Noncompliance to relevant licensing authorities notifying them of your liability. The licensing authority may then take steps to suspend, revoke, deny issuance or deny renewal of your professional, occupational, recreational, business or industry license. Before we issue a certificate of noncompliance, we will provide you notice of the potential license sanction and give you the opportunity to schedule a conference to challenge the license sanction or to enter into an approved payment plan.

## **MISCELLANEOUS ITEMS**

### **Other Information for Businesses**

If you are responsible for filing returns and making tax payments for a business, you may be personally liable for the unpaid taxes, penalty and interest of that business.

## **Refund of Overpaid Tax**

Once you have paid your tax liability in full, you have the right to file a claim for refund if you think the tax is incorrect. If we reduce or deny your claim for refund, you have the same appeal rights that you would have upon the issuance of a Notice of Assessment. If your claim for refund has been pending before the Department for six months and has not been reduced or denied, you may file an Appeal on your claim.

## **B. Billings and Collections FAQs**

### **Contacts**

515-281-6944 or 1-866-339-7912

Wayne Cooper, Manager, 515-725-0229

### **Payments**

#### **1. Payment Plans:**

I received a bill and would like to set up a payment plan. Can I do that?

#### **2. Due Date on Bill:**

Why doesn't the due date on the billing notice allow me enough time to get this paid?

#### **3. Duplicate Bill:**

I've already sent my payment, why did I receive another bill?

#### **4. Uncashed Check:**

Why hasn't my check cleared the bank yet?

#### **5. Credit for Payment:**

I sent my payment with my return. Why didn't I get credit?

#### **6. Vendor Payments:**

Why are you taking my vendor payment?

### **Refunds**

#### **7. Federal Refund:**

Why are you taking my federal refund when you have my state refund?

**8. State Refund:**

Why are you holding my state refund?

**Balance Due Inquiry**

**9. Additional Bill:**

Why are you billing me for more sales tax? I paid what I collected.

**10. Amend Return:**

How do I correct a mistake on my tax return?

**11. No Tax Due:**

I did not owe any sales and/or withholding for these periods. Why did you bill me?

**12. Sent Information:**

Why did I receive another bill after I sent you the information you needed?

**Late-Filed Returns**

**13. Penalty and Interest:**

I mailed my payment on time. Why are you billing me for penalty and interest?

**14. Bill for More Tax:**

Why did I receive a bill showing that I owe tax? Although I sent my return and payment late, I paid all the tax.

**15. Remove Penalty:**

I do not think I should have to pay this penalty. Can it be removed?

**Unreported Income Tax Billing**

**16. What Income?**

What unreported income are you billing me for?

**17. Why Bill Now?**

Why am I just now getting billed for this?

**18. Already Paid?**

Didn't I pay this last year?

**19. Why Interest?**

Why do I have to pay interest when you're just now billing me?

**Payments**

**1. I received a bill and would like to set up a payment plan. Can I do that?**

Yes. Use our Web site [PayDebt.Iowa.gov](http://PayDebt.Iowa.gov).

This will be available anytime after the Department sends you a 20 Day Notice of Tax Due, or by the Notice of Assessment that starts your 60 day appeal period. This Web site will allow you to make a 1 time payment, or to set up a short term payment plan by check, bank withdrawal or one time credit card payment.

If you pay by check, please detach and send the coupon with your payment in the return envelope provided. If you don't have a coupon, please include your name, address, and account number with your payment. You can mail payments to:

Iowa Department of Revenue  
PO Box 10471  
Des Moines IA 50306-0471

If we do not receive payment in full, or if you do not set up a payment plan by the end of your appeal period the balance due on your account will go to our collection section. At this point, you will not be able to renew vehicle plates, and professional licenses may be sanctioned and other forced collection actions may be taken.

Note: If you have been billed for "Return Received without Payment" or "Unhonored Check", your account goes directly to the collection section.

## **2. Why doesn't the due date on the billing notice allow me enough time to get this paid?**

Interest is charged on tax amounts due each month from the due date of the tax return. Additional interest is added to the account balance on the first day of a new month. The notice is showing you the amount due through the end of the current month and the amount that will be due as of the first day of the next month. While additional interest may be added to the balance, it does not change the time you have to respond to the notice.

We use the postmark date on the envelope of your payment. If the payment is postmarked by the last day of the month, the account will not accrue additional interest.

### **3. I've already sent my payment, why did I receive another bill?**

Your payment did not get applied to your account before the next statement was sent. The billing notice is automatically generated if the system still shows a balance due. It could take 2 to 4 weeks to process the payment, although most payments are processed in seven to 10 days.

If you receive additional notices after six weeks, contact our accounts receivable call center at 515-281-3663.

### **4. Why hasn't my check cleared the bank yet?**

If you mailed your check within the last 30 days, it is possible we have not yet processed your payment.

If it has been longer than 30 days, you should contact your bank and inquire if the check has been cashed.

If it has been cashed, please allow an additional 30 days for us to process your payment.

If your check has not been cashed, you may want to tell the bank to stop payment on the check and send another check. Perhaps the payment was lost in the mail.

Whenever you send a payment, be sure to include details: tax type, tax period, and any identifying number, such as sales tax permit number or Federal Identification Number.

Please be sure to send your payment to the correct address.

### **5. I sent my payment with my return. Why didn't I get credit?**

If it has been 30 days since you mailed your check, contact your bank to be sure the check has been cashed. If the check has been cashed, then get a copy of the canceled check, front and back, and send a copy with your billing notice in the return envelope provided.

If the check was not cashed, please allow an additional 30 days for processing.

If it has been longer than 60 days and your check has not been cashed, you may want to consider putting a stop payment on the lost check and sending another to:

Iowa Department of Revenue  
PO Box 10471  
Des Moines IA 50306-0471

## **6. Why are you taking my vendor payment?**

You have a debt with the Iowa Department of Revenue or other agency. For more information regarding this debt, call 515-281-3663.

For further information concerning the payment(s) involved, contact the agency that is making payment to you.

## **Refunds**

### **7. Why are you taking my federal refund when you have my state refund?**

The federal refund is taken first to pay your debt; then the state refund is used. It could take up to six weeks to determine how much of your state refund is needed.

You will receive notification from the agency that is taking your refund.

If the refunds and/or your payments overpay your state debt, the balance will be returned to you. Again, please allow six weeks to process your refunds and/or payments.

If you have a payment agreement with the Iowa Department of Revenue, that does not stop us from taking your refund(s) to pay the balance due.

### **8. Why are you holding my state refund?**

Your refund is being held for a debt that you owe with the State of Iowa. If, after the debt has been paid, there is a portion of your refund remaining, it will be sent to you. Please allow at least six weeks for us to process your refund.

If you have a payment agreement with the Iowa Department of Revenue, that does not stop us from taking your refund(s) to pay the balance due.

## **Balance Due Inquiry**

### **9. Why are you billing me for more sales tax? I paid what I collected.**

We calculate how much sales tax you owe based on the information you supply on your quarterly sales tax return.

Check the calculations on your return. Also check that the payments claimed as deposits were made and have been cashed.

## **The most common errors are:**

*Included sales tax collected in the amount reported as gross sales.*

To take the sales tax out of the gross receipt figure, use the following



formula:

Gross receipts   xxx.xx

Divided by    1.0x    the second number after the decimal is the state sales tax %, plus local option

= Gross sales   xxx.xx

**Example:**

**Gross receipts                    150.00**

**Divided by                    1.07 (7% total sales tax)**

**= Gross sales                140.18**

**Report gross sales on the sales tax return not the gross receipts.**

**Please check the following for the tax requirements in your area:**

**Iowa local option tax information**

*Overclaimed the amount of deposits and overpayment credits on the sales tax return.*

**Check your records to be sure that the payments for monthly deposits have cleared your bank. If the checks have been cashed, you will need to send us copies of the canceled check front and back. Please attach the copies to the billing notice and mail in the envelope provided.**

**If you are taking a credit from sales tax paid in a prior quarter, you will need to amend that quarter and show the credit. (See information concerning amending returns in answer to Question 10 below.)**

*The local option tax was incorrect on your return.*

**(Iowa local option tax information)**

**For further assistance, contact our accounts receivable call center at 515-281-3663.**

**10. How do I correct a mistake on my tax return?**

**You can amend (file another return) to correct your mistakes.**

**Amend your sales/use, withholding or fuel tax return through eFile & Pay.**

**11. I didn't owe any sales and/or withholding for these periods. Why did you bill me?**

**You must file a sales and/or withholding return even if you have no tax to report. If you are registered to file sales tax and/or withholding tax and have not filed a return, we will estimate a tax amount and bill you. This will continue until actual returns are received, or until you cancel your registration for sales and/or withholding tax.**

**Iowa tax return due date calendar (Excel)**

**Registration change or cancel form (pdf)**

**12. Why did I receive another bill after I sent you the information you needed?**

**The billing notice is automatically printed and sent if the system still shows a balance due. It could take 4 to 6 weeks to process the information you sent.**

**If you receive another notice after six weeks, contact our accounts receivable call center at 515-281-3663.**

#### **Late Filed Returns**

**13. I mailed my payment on time. Why are you billing me for penalty and interest?**

**We bill penalty and interest based on the postmark date on the envelope in which the return and/or payment was mailed or the date we received the transmission if you paid electronically.**

**14. Why did I receive a bill showing that I owe tax? I sent my return and payment late, but I paid all the tax.**

**We calculate penalty and interest at the time the return and payment are received. The payment is applied to fees first, penalty second, interest third, and, finally, to the tax amount due. Therefore, the balance due remains in the tax column on the billing notice.**

**Example:**

**Tax  
Penalty**

<b>Interest</b>	
<b>FeeTotal</b>	
<b>Owed</b>	
	<b>150.00</b>
	<b>15.00</b>
	<b>1.20</b>
	<b>166.20</b>
<b>Paid</b>	
	<b>-133.80</b>
	<b>-15.00</b>
	<b>-1.20</b>
	<b>-150.00</b>
<b>Balance</b>	
	<b>16.20</b>
	<b>16.20</b>
<b>Billing</b>	
	<b>16.20</b>
	<b>.12</b>
	<b>16.32</b>

**Interest continues to accrue on the balance of the tax amount due and will be added on the first day of each new month.**

**15. I don't think I should have to pay this penalty. Can it be removed?**

**You may request a waiver of penalty by writing a letter to the Department explaining why the return and/or payment was late. The letter must ask for "a waiver of penalty." Send the letter with the billing notice to us in the return envelope we provided you.**

**Iowa Department of Revenue  
Hoover State Office Bldg  
PO Box 10471**

**Des Moines IA 50306-0471**

**Disclaimer: The Department may only waive penalty in specific circumstances as provided in the Iowa Code. The Department may not waive penalty for reasons of convenience or financial hardship. Interest cannot be waived.**

**Unreported Income Tax Billing**

**16. What unreported income are you billing me for?**

**The Internal Revenue Service (IRS) has notified us that they found additional income that was not reported on the federal tax return for the year you have been billed. If the IRS made a change to their original revision, please send us a copy of the letter you received from the IRS showing what they changed.**

**Attach a copy of the letter to the billing notice sent to you by us and mail in the return envelope provided.**

**Iowa Department of Revenue  
Hoover State Office Bldg  
PO Box 10471  
Des Moines IA 50306-0471**

**17. Why am I just now getting billed for this?**

**The Internal Revenue Service (IRS) releases the information to us two to three times per year. It takes additional time for us to process the information and review the results before a bill is issued to you.**

**18. Didn't I pay this last year?**

**If you made an additional tax payment last year on the failure to report this income, you were paying a billing from the Internal Revenue Service (IRS).**

**19. Why do I have to pay interest when you're just now billing me?**

**Interest accrues on unpaid taxes from the due date of the tax return through the current date. The interest rate and how it is applied is set by law.**

**NOTE: If the unreported income was from wages (W-2), gambling income (W-2G) and/or miscellaneous income (1099misc) that had Iowa tax withheld, please send a copy of your W-2, W-2G, and/or 1099misc to us. We will give you credit for the Iowa withholding and revise the amount you owe.**

**Send copies attached to the billing notice in the return envelope provided.**

**Iowa Department of Revenue  
Hoover State Office Bldg  
PO Box 10471  
Des Moines IA 50306-0471**

**If you need further assistance, contact our accounts receivable call center at 515-281-3663.**

### **C. Licensing Sanctions for Debt Collection**

#### **Professional license at risk if debt not paid**

##### **What are license sanctions?**

If an individual owes at least \$1,000 in debt being collected by the Central Collections Unit (CCU) of the Iowa Department of Revenue, the CCU can request that the professional license of the individual be...

suspended

revoked

denied issuance

denied renewal

A person whose license has been suspended or revoked is prohibited from practicing in the state of Iowa. In addition, hunting and fishing licenses may also be denied.

##### **What type of debt is collected by the Central Collections Unit?**

delinquent court fines

unpaid taxes

debt owed to the Department of Natural Resources

##### **How can I avoid having my license sanctioned?**

Contact the Central Collections Unit at 515-281-6944 and request to:

Pay your account in full or

Make payment arrangements to repay your debt

## **What licenses can be sanctioned?**

Below is a sample of license types. It includes licenses required to practice a profession and hunting and fishing licenses. This list is not complete.

Accountants (CPAs and LPAs)

Architects

Attorneys

Barbers

Chiropractors

Cosmetologists

Dentists

Electricians

Farm chemical applicators

Fishing licenses

Hunting licenses

Investigators

Massage therapists

Medical doctors

Podiatrists

Nurses

Pharmacists

Security guards

Teachers

Veterinarians

## **Which licensing authorities participate in license sanctions?**

Licensing authorities include the following:

Iowa Department of Commerce

Iowa Board of Educational Examiners  
Iowa Department of Inspections and Appeals  
Iowa Department of Natural Resources  
Iowa Department of Public Health  
Iowa Department of Public Safety  
Iowa Supreme Court – Professional Regulation  
Iowa Department of Transportation  
Iowa Workforce Development  
Iowa Board of Medicine  
Iowa Dental Board  
Iowa Board of Veterinary Medicine

### **How does the license sanction process work?**

The Central Collections Unit (CCU) notifies the licensee by mail about the debt. The licensee is given 20 days to respond and establish a repayment agreement.

1. If a licensee fails to respond, set up a repayment schedule, or comply with a repayment agreement, the CCU sends a Certificate of Non Compliance to the appropriate licensing authority.
2. The licensing authority notifies the licensee that the license will be suspended or revoked. The licensee has 30 days to pay the debt or make arrangements with the CCU to pay the debt in installments.
3. If the licensing authority does not receive word from the CCU that the debt has been resolved, it suspends or revokes the licensee's license. If a license is already on suspension, the license is revoked.

### **How does a license get reinstated?**

1. The licensee must pay the debt or enter into an installment payment agreement with the Central Collections Unit (CCU) to remove the grounds for suspension or revocation.
2. If a licensee enters into an installment agreement, but breaks that agreement, they must pay the liability in full in order to have the license reinstated.

3. The CCU sends a Withdrawal of Certificate of Non Compliance to the licensing authority if the debt is paid or if the licensee enters into an installment payment agreement.

### **Are payment plans allowed?**

Payment plans are allowed if licensees can prove they don't have the ability to pay the debt in full. Plans must be approved by the Central Collections Unit (CCU). The terms of the payment agreement will be based on each licensee's specific financial situation. The payment plans must be in writing using the form provided by the CCU.

### **Can a licensee request a conference?**

A licensee may request a telephone conference with the Central Collections Unit (CCU). The request must be made in writing within 20 days of the mailing date of the letter. The request form will be attached to the notice that is sent to the licensee.

The CCU will notify the licensee of the date and time of the conference by regular mail. If the licensee fails to appear by telephone for the conference, the CCU will issue a Certificate of Non Compliance.

The CCU will not issue a Certificate of Non Compliance if:

- The unit finds a mistake in the identity of the person.

- The unit finds a mistake in determining the amount of the liability.

- The unit determines the amount of the liability is not greater than \$1,000.

- The licensee enters into an acceptable payment plan.

### **What rights does a licensee have?**

If a licensee believes a Certificate of Non Compliance was issued in error, the licensee can file a petition in district court.

The licensee must:

- File a petition in district court within 30 days after the licensing authority issues the notice of intent to suspend or revoke the license. This will stop the suspension or revocation until the case is concluded.

- Send a copy of the petition to the licensing authority.

The only issues the court will consider are whether the debtor has been correctly identified and whether the amount of the debt is accurate.



**Is licensee information confidential?**

**Information shared by licensing authorities with the Central Collections Unit is confidential. It will be used only for the purposes of collecting debt under the license sanction law.**

**D. Pay Delinquent Tax or Court Debt Online**

Use this online payment service if you have received a delinquent tax or court debt assessment, or a billing notice from the Iowa Department of Revenue.

You can set up a payment plan or make a one-time payment through this online payment service. Payment methods include credit card, direct debit from a checking account, or make arrangements to send a paper check.

**Set Up a Payment Plan**

Payment plans can be set up for as many as 24 months.

**Make a Payment**

Use this online service to make a single payment.

To use this service you will need your zip code and the account number found on an assessment or billing notice received from the Iowa Department of Revenue.

[PayDebt.Iowa.gov](http://PayDebt.Iowa.gov)

**What is my account number?**

A nine digit account number is assigned to any debt processed by the Department of Revenue. Your account number is identified on assessment and billing notices from the Department. The account number **is not** a social security number or FEIN.

**Please Note:**

The Iowa Department of Revenue no longer accepts payments from financial institutions located outside the United States.

**VI. Federal Offset for Iowa Income Tax Obligations**

701—150.1(421,26USC6402)

Purpose and general application of offset of a federal tax overpayment to collect an Iowa income tax obligation. Effective for refunds of overpayments to the Internal Revenue Service (IRS) that are payable beginning January 1, 2000, the IRS may offset, in whole or in part, an amount of federal refund payable to an Iowa resident by the amount of any past due legally enforceable Iowa income tax obligation owed by such taxpayer. The purpose of this chapter is to establish a procedure to identify taxpayers that owe Iowa income tax liabilities and to establish a procedure for requesting the offset of the taxpayer's federal tax overpayment to collect a past due legally enforceable Iowa income tax obligation.

701—150.2(421,26USC6402)

Definitions. The following definitions are applicable to the federal offset program:

"Assessment" means the determination of a past due tax obligation and includes self-assessments. An assessment includes the Iowa income tax, interest, penalties, fees or other charges associated with the past due legally enforceable Iowa income tax obligation.

"Department," "state of Iowa," "Iowa" or

"the state" means the Iowa department of revenue.

"Director" means the director of the Iowa department of revenue.

"Overpayment" means a federal tax refund due and owing to a person or persons.

"Past due legally enforceable Iowa income tax obligation" means a debt which resulted from a judgment rendered by a court of competent jurisdiction which has determined an amount of state income tax to be due or a determination after an administrative hearing which has determined an amount of state income tax to be due and which is no longer subject to judicial review. In addition, this term also includes a debt which resulted from a state income tax which has been assessed but not collected, for which the time for redetermination has expired, and which has not been delinquent for more than ten years.

"Resident of Iowa" means any person with a federal overpayment for the year in which Iowa seeks offset and such person has an Iowa address listed on that person's federal return for the tax period of overpayment.

"Secretary" means the Secretary of the Treasury for the federal government.

"State income tax obligation" or

"Iowa income tax obligation" is intended to cover all Iowa income taxes. This term includes all local income taxes administered by the Iowa department of revenue or determined to be a "state income tax" under Iowa law. Such taxes may include, but are not limited to, individual income tax, income surtax, fiduciary income tax, withholding tax, or corporate income tax, and penalties, interest, fines, judgments, or court costs relating to such tax obligations.

"Tax refund offset" means withholding or reducing, in whole or in part, a federal tax refund payment by an amount necessary to satisfy a past due legally enforceable state income tax obligation owed by the payee (taxpayer) of the tax refund payment. This rule only involves the offset of tax refund payments under 26 U.S.C. 6402(e); it does not cover the offset of federal payments other than tax refund payments for the collection of past due legally enforceable state income tax obligations.

"Tax refund payment" means the amount to be refunded to a taxpayer by the federal government after the Internal Revenue Service (IRS) has applied the taxpayer's overpayment to the taxpayer's past due tax liabilities in accordance with 26 U.S.C. 6402(a) and 26 CFR 301.6402-3(a)(6)(i).

701—150.3(421,26USC6402)

Prerequisites for requesting a federal offset. The following are the requirements that the state of Iowa must meet before the state can request an offset of a federal overpayment against an Iowa income tax obligation:

150.3(1)

Pre-offset notice. At least 60 days prior to requesting the offset of a taxpayer's federal overpayment for an Iowa income tax obligation, the state of Iowa must provide notice by certified mail, return receipt requested, to the person owing the Iowa income tax liability. This notice must state the following information:

a. That the state proposes to request the offset of the person's federal overpayment against a specified Iowa income tax obligation and that such an obligation is past due and legally enforceable;

b. That the authority for this offset is Internal Revenue Service Restructuring and Reforms Act of 1998, Pub. L. 105-206, 112 Stat. 685, 779 (1998), as implemented by this chapter;

c. That the person owing the obligation has 60 days from the date of the notice to present evidence to the department that all or part of the obligation at issue is not past due or not legally enforceable;

d. The mailing address for submitting such evidence;

e. That failure to timely submit the evidence waives the taxpayer's right to protest the amount, validity or qualification of the Iowa income tax obligation for offset at any time in the future; and

f. Where contact can be made with the department for additional information or questions.

150.3(2) The state must consider any evidence presented by the person owing the obligation and determine whether the amount or amounts are past due and legally enforceable.

150.3(3) The state must have made written demand on the taxpayer to obtain payment of the state income tax obligation for which the request for offset is being submitted.

150.3(4) Additional pre-offset notices. The department must provide a taxpayer with an additional pre-offset notice if the amount of the obligation to be subject to offset is increased due to a new assessment. However, a new pre-offset notice is not required to be sent to the taxpayer by the department if there is an increase in the amount to be offset due to accrued interest, penalties or other charges associated with an Iowa income tax obligation in which notice has previously been given.

150.3(5) Before offset of the federal refund can be requested by the state of Iowa, the person's Iowa income tax liability must be at least \$25, unless otherwise provided based on the discretion of the department and the Secretary. If an individual owes more than one Iowa income tax obligation, the minimum amount will be applied to the aggregate amounts of such obligations owed to Iowa.

150.3(6) Offset applies to residents of Iowa as defined under these rules.

701—150.4(421,26USC6402)

Procedure after submission of evidence. Upon timely receipt of evidence by the department from the taxpayer as set forth in 150.3(1) "c," the

department has 60 days to review the evidence and notify the taxpayer whether the evidence submitted is sufficient to terminate the intended offset. If the department determines that the evidence is sufficient, the procedure to initiate the federal offset shall be terminated for that obligation and the taxpayer's record of Iowa income tax obligation for that particular obligation shall be adjusted accordingly. However, if the department determines that the evidence is insufficient to show that the amount or amounts at issue are not, in whole or in part, a past due and legally enforceable income tax obligation, the department must notify the taxpayer within 60 days of receiving the evidence from the taxpayer.

The contest of an offset under these rules is subject to judicial review under Iowa Code section 17A.19 as "other agency action."

In cases in which a taxpayer claims immunity from state taxation due to being an enrolled member of an Indian tribe who lives on that member's reservation and derives all of that member's income from that reservation, Iowa must consider such claims de novo on the merits, unless such claims have been previously adjudicated by a court of competent jurisdiction.

#### 701—150.5(421,26USC6402)

Notice by Iowa to the Secretary to request federal offset. Iowa must notify the Secretary of an Iowa income tax obligation in the manner prescribed by the Secretary.

#### 701—150.6(421,26USC6402)

Erroneous payments to Iowa. If Iowa receives a notice from the Secretary that an erroneous payment has been made to Iowa under these rules, Iowa must promptly pay to the Secretary, in accordance with such rules and regulations as the Secretary may prescribe, an amount equal to the amount of the erroneous payment (without regard to whether any other amounts payable to Iowa under these rules have been paid to Iowa). In the alternative, Iowa may return the erroneous payment directly to the taxpayer. If this latter alternative is used by Iowa, then Iowa must notify the Secretary of the erroneous offset being paid to the taxpayer, and the taxpayer's records will be adjusted accordingly.

#### 701—150.7(421,26USC6402)

Correcting and updating notice to the Secretary. Iowa must notify the

Secretary of any deletion or decrease in the amount of past due legally enforceable Iowa income tax obligation referred to the Secretary for collection by offset under these rules. Iowa may also notify the Secretary of any increases in the amount or amounts referred to the Secretary for collection by offset under these rules provided that Iowa has complied with the requirements of these rules with regard to such amount or amounts.

These rules are intended to implement Iowa Code chapter 421 and 26 U.S.C. 6402(e) et seq.

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