

FEDERAL TAX REFUND OFFSET PROGRAM

The Federal Tax Refund Offset Program collects past-due child support payments from the tax refunds of parents who have been ordered to pay child support. The program is a cooperative effort between the Federal Office of Child Support Enforcement (OCSE), the Internal Revenue Service (IRS), the Financial Management Service (FMS) of the Department of the Treasury, and State Child Support Enforcement (CSE) agencies.

The Federal Tax Refund Offset Program was enacted by Congress in 1981 and was originally restricted to child support debts owed in public assistance cases. It was expanded in 1984 to include child support debts in non-assistance cases. The Federal Tax Refund Offset remedy is mandatory, and must be used if a case meets the criteria.

Under this offset program, tax refunds owed to non-custodial parents are intercepted, and sent to the state child support agency through OCSE, to pay the non-custodial parent's past-due child support debt.

Since the program began in 1982 through 2002, more than \$15 billion in past-due child support has been collected, and more than 20 million tax refunds have been intercepted.

What cases are submitted for Federal Tax Refund Offset?

Only cases receiving full services through the state IV-D child support enforcement agency are eligible for Federal Tax Refund Offset. In some states, the custodial party may be charged a fee (not greater than \$25) for this service.

Cases eligible for tax refund offset are those cases that have a delinquent child support debt. If the child support order includes an award for spousal support, the tax refund may also cover the past-due spousal support. For cases receiving Temporary Assistance for Needy Families (TANF), the non-custodial parent must be at least three months behind in child support payments and owe at least \$150; in non-TANF cases, the amount owed must be at least \$500.

How does the program work?

State CSE agencies, through OCSE, submit (certify) to the Department of Treasury the names, Social Security Numbers, and the amount of past-due child support for people who are delinquent in their payments.

Non-custodial parents whose past-due child support debts meet the criteria for Federal Tax Refund Offset receive a Pre-Offset Notice explaining the process. The notice includes an initial debt amount – the amount of past-due child support owed at the time the notice is sent. The actual amount deducted from the tax refund may be different, because of payment or non-payment of child support after the Pre-Offset Notice is

mailed. The state will update the debt amount regularly, but may not issue a new notice each time the debt changes. The Pre-Offset Notice also includes information about the Administrative Offset and Passport Denial programs, and other actions the state may take to enforce a child support obligation. The notice will also include information about how to contest the debt amount.

When tax refunds are processed, those who owe past-due support are identified. If a refund is due, all or part of the refund is intercepted and forwarded through OCSE to the state CSE agency, to repay the past-due support debt.

At the time of the Federal Tax Refund Offset, FMS mails a Notice of Offset to the debtor stating that all or part of the Federal tax refund has been intercepted (offset) because of the child support debt owed. The notice will advise the non-custodial parent to contact the local child support agency for further information.

It normally takes three to five weeks from the time of the offset until the money is sent to the state that submitted the case for offset.

Are interstate cases handled differently?

Usually the state in which the custodial party lives will submit the debt for Federal Tax Refund Offset. In cases where the non-custodial parent owes a child support debt to more than one state, each state will submit their case for Offset. The non-custodial parent will receive a separate notice for each state's debt, and will have the right to contest each state's debt amount.

I am the custodial party, and received TANF for awhile. The non-custodial parent owes back child support to the state and me. If the state intercepts the tax refund will I get the money?

Some past-due child support payments are assigned to the state as a condition of receiving TANF (formerly Aid to Families with Dependent Children – AFDC). When the state receives intercepted tax refunds, the state must first apply the refund to any child support debt assigned to the state. Once the state's debt has been satisfied, intercepted tax refunds are sent to the family for the child support debt owed to them.

If multiple states have submitted the non-custodial parent for Federal Tax Refund Offset, the non-custodial parent's refund may not be large enough to satisfy each state's debt. The first state to submit their debt will receive priority for the collection. After that, all debts assigned to a state (because of public assistance – AFDC, TANF, or Foster Care – paid) will be satisfied before any debt owed to the family can be paid.

In all cases, IRS tax debts have first priority over all other debts.

As the non-custodial parent, what happens if I have remarried, and part of the income tax refund belongs to my new spouse?

Depending on state laws regarding community property, all or part of your spouse's Federal Tax Refund may be taken to pay your child support debt.

If you and your new spouse (called a "non-obligated" or "injured" spouse) file a joint income tax return, your spouse may be able to get back his or her share of the refund. Your spouse may file a request for an Injured Spouse Claim and Allocation of a Joint Return with the IRS, to claim his or her portion of any refund due. The IRS encourages the injured spouse to file the claim at the same time the tax return is filed.

If the state child support agency is aware that you have filed a joint IRS return with your new spouse, the state may hold part or all of the tax refund for up to six months, while waiting for IRS notification regarding the Injured Spouse Claim.

My child(ren) is no longer a minor. Will the debt still be submitted for Federal Tax Refund Offset?

For non-assistance (non-TANF) debts, once a dependent is no longer a minor, the child support debt owed on behalf of that child cannot be submitted for Federal Tax Refund Offset – even if the debt accrued while the child was still a minor. If the adult dependent is disabled, in some circumstances the debt can be submitted for Federal Tax Refund Offset.

Some child support debts are owed to the state as reimbursement for public assistance (AFDC, TANF, or Foster Care) paid on behalf of the family. Those debts are eligible for Federal Tax Refund Offset regardless of the age of the child(ren).