

Offset of State Tax Refund Claims

Notice #10-02

July 2010

**INTRODUCTION**

This notice is intended to provide taxpayers with information concerning a new requirement that the Department of Revenue offset tax refunds by the amount of any debt owed by the taxpayer to the State of Tennessee.

DISCUSSION

Public Chapter 1113 (2010) directs the Department of Revenue to offset refunds by any debt owed by the taxpayer to a *state agency, department, board, bureau, commission, or authority* ("state agency").

Report of Debts

Any taxpayer that files a claim for refund with the Department of Revenue for \$200.00 or more must complete and submit with the claim for refund a "Report of Debts" form. The form is available on the Department's website.

Additionally, any taxpayer that filed a claim for refund with the Department of Revenue for \$200.00 or more on or after July 1, 2009, must also complete and submit a Report of Debts if the refund has not yet been paid by the Department.

For each debt listed on the Report of Debts form, the taxpayer must provide the amount of the debt and the name of the state agency to which the debt is owed. Any taxpayer that provides false information on the Report of Debts with the intent to deceive commits the Class A misdemeanor offense of perjury.

Note, however, that claims for refund resulting solely from the payment of estimated taxes that exceed the actual liability established by the initial tax return pursuant to Tenn. Code Ann. § 67-1-1802(a)(1)(A) are not subject to this reporting requirement.

Offset Procedure

The Department will notify the applicable state agency of any debts listed on the Report of Debts. The state agency is then required to notify both the taxpayer and the Department if it wants the Department to offset the refund by the amount of the debt. Within twenty (20) days after receiving notice from the state agency, the taxpayer may request a hearing to contest the existence of the debt or whether the final debt amount, as determined by the state agency, is correct. Such hearing will be conducted in accordance with the Uniform Administrative Procedures Act. Details about how to request a hearing will be included in the notice received from the state agency.

- *New legislation requires that tax refunds be offset by debts owed to the State of Tennessee.*
- *Taxpayers requesting a refund of \$200 or more must submit a Report of Debts.*
- *Offset applies to refund claims filed on or after July 1, 2009.*
- *Providing false information with the intent to deceive will be considered perjury.*
- *A taxpayer may contest the existence or amount of a debt through a hearing requested within 20 days of receipt of the state agency's notice.*

➤ *The offset amount will be remitted to the state agency to be applied to the debt and the remaining portion of the refund will be paid to the taxpayer.*

➤ *If a taxpayer receives a refund but does not report a debt, the Department may later assess and collect from the taxpayer the refunded taxes up to the amount of the debt.*

After twenty (20) days have elapsed from the taxpayer's receipt of the state agency's notice, or upon a final determination if a hearing is requested, the Department will offset the refund by the appropriate debt amount. The offset amount will be remitted by the Department to the state agency to be applied to the debt on behalf of the taxpayer. Any portion of the tax refund remaining after the offset will be refunded to the taxpayer. The Department will provide the taxpayer with an accounting of the action taken on any refund whenever an offset of the taxpayer's refund occurs.

Assessment Procedure if Debt is not Reported

Each year the Department will provide to state agencies a list of all taxpayers who received refunds in the amount of \$200.00 or more within that year and reported no debts to state agencies.

If a taxpayer received a refund and failed to disclose a debt, the Department is directed to assess and collect from that taxpayer the refunded taxes up to the amount of the debt.

Within twenty (20) days after receiving the assessment, the taxpayer may request a hearing to contest the existence of the debt or whether the debt amount, as determined by the state agency, is correct. Such hearing will be conducted in accordance with the Uniform Administrative Procedures Act. Details about how to request a hearing will be included in the notice received from the state agency.



References:

PC 1113 (2010)

The information provided here is current as of the date of publication but may change as a result of new statutes, regulations, or court decisions. While this notice is intended to be comprehensive, events and situations unanticipated by this notice may occur. In such cases you should contact the department or your tax professional for further guidance.