

Federal Tax Refunds Can Be Intercepted to Pay Back Child Support

Q: What is the tax offset program?

A: The tax offset program is a child support enforcement technique that allows a nonresidential parent's tax refund to be intercepted to help repay child support debt. Effective October 1, 2007, the law was amended to allow federal income tax refunds to be offset for past due support owed to any child regardless of age. Before this change in the law, federal tax refunds were only intercepted and sent to the family if the case included a child under the age of 18.

Q: Under what circumstances can a federal tax refund be intercepted to pay back child support?

A: Your federal tax refund can be intercepted to pay back child support only if:

- an application for services is on file with the Child Support Enforcement Agency (CSEA);
- you did not file for bankruptcy before October 17, 2005 (filings after 10/17/05 are eligible for the tax offset program according to the Bankruptcy Abuse Prevention Consumer Protection Act of 2005);
- you owe a minimum of \$500 in arrears to the family or \$150 in arrears to the State of Ohio (if you have more than one case, all arrears combined must meet the minimum submittal amount);
- in an interstate case, Ohio is the "initiating" state;
- your case is delinquent for 30 days or longer after the tax offset application was submitted.

Q: What if the amount of my federal tax refund is greater than the amount I owe in back child support?

A: If the refund amount is greater than the amount of back support you owe, you will receive the difference, provided there are no other debts that are eligible for either the federal or state tax offset. Because regular updates are submitted to the IRS and Ohio Department of Taxation, only the amount of the arrears should be sent to the CSEA. (If you pay the child support arrears off yourself to avoid having your refund intercepted, you should wait at least three weeks to file your tax return from the date you made the support payment to avoid having your refund taken by mistake.)

Q: How will I know if my federal tax refund is being intercepted to pay back child support?

A: Once a case is determined to be eligible, you will receive a "pre-offset notice," and you will have a chance to request a tax offset review with the submitting child support agency if you disagree with the information contained in your notice.

If the arrearage amount remains eligible for the tax offset program 30 days after the initial submission, your tax refund then becomes eligible for offset. The IRS will notify you when the actual offset of the refund occurs, and will let you know the specific dollar amount that is being forwarded to the county child support agency for your child support debt. There is no objection/dispute process available.

Q: I am the residential parent and am owed back child support. How will I know I will receive my former spouse's tax refund?

A: If your case meets the criteria listed above, the case will automatically be submitted. You will not receive any official notification that a tax offset will occur or when you will receive it. Contact your county CSEA with specific questions.

Q: I owe child support as a nonresidential parent. I'm remarried now, and my current spouse and I file a joint tax return. How can I prevent my spouse's portion of the tax refund from being intercepted to pay my child support debt?

A: Your current spouse should complete and file IRS Form 8379 ("injured spouse allocation") with your actual tax return. The IRS gives your current spouse up to six months to file an "injured spouse" claim if Form 8379 is not filed with the initial tax return.

Q: How soon will I receive the federal tax refund money from my former spouse for back child support?

A: Once the federal IRS receives a tax collection, it takes approximately 30 - 45 days to complete the processing and post the payments to child support cases. If the tax intercept was received from a joint tax return, monies are automatically held for six months from the date of processing to allow an injured spouse claim to be filed. Federal tax refunds are used to pay child support arrears only. Currently, any arrears owed to the State of Ohio will be paid before arrears are paid to the family.

Q: Where can I get more information about the tax offset program?

A: For more information, contact your local child support enforcement agency, or visit www.ocda.us, the website of the Ohio CSEA Directors' Association (OCDA), a statewide organization representing county child support enforcement agencies (CSEAs) in Ohio.

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This "Law You Can Use" column was provided by the Ohio State Bar Association (OSBA). It was prepared by the Ohio CSEA Directors' Association (OCDA).

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