

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.

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, more than \$25.8 billion in past-due child support has been collected nationwide.

What cases are submitted for Federal Tax Refund Offset?

Only cases receiving full services through the state 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 \$35) for this service.

Cases eligible for tax refund offset are those that have a past-due child support obligation. 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 support payments and owes at least \$150; in non-TANF cases, the amount owed must be at least \$500.

The Federal Tax Refund Offset remedy must be used if a case meets the criteria for submission

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 support for people who are delinquent in their payments.

Non-custodial parents whose past-due support meets the criteria for Federal Tax Refund Offset receive a Pre-Offset Notice explaining the process. The notice includes an initial past-due amount – the amount of past-due 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 support after the Pre-Offset Notice is mailed. The state CSE agencies will update the past-due support regularly, but are not required to issue a new notice each time the amount changes. The Pre-Offset Notice also includes information about the Administrative Offset and Passport Denial programs, and other actions the state CSE agencies may take to enforce a support obligation. The notice will also include information about how to contest the past-due 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 child support enforcement agency, to repay the past-due support amount.

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 past-due support 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?

The state in which the custodial party receives child support services will usually submit the past-due amount for Federal Tax Refund Offset. In cases where the non-custodial parent owes support 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 submission, and will have the right to contest each state's past-due support amount.

I am the custodial party and received TANF (Temporary Assistance for Needy Families) 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 past-due support amount assigned to the state. Once the state's past-due support amount has been satisfied, any remaining intercepted tax refunds are sent to the family for past-due support 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 the past-due support amount owed to each state. The first state to submit their amount owed will receive priority for the collection. After that, all amounts assigned to a state (because of public assistance – AFDC, TANF, or Foster Care – paid) will be satisfied before any amount 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?

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 CSE agency is notified 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 past due support amount still be submitted for Federal Tax Refund Offset?

Yes, as long as all the criteria for submission are met. Past-due child support amounts exceeding the thresholds will be submitted. The thresholds are:

- \$500 or more for amounts owed to the custodial parent and the custodial parent's address is known.
- \$150 or more for amounts owed to the State for periods when public assistance benefits were paid to the family.

The Deficit Reduction Act of 2005 removed the restriction of submitting only the amounts owed to the custodial parent while the child was a minor. CSEA implemented the change effective October 1, 2007, resulting in an increase of 20% more obligors being submitted for Federal Tax Refund Offset.

How is the amount of overdue support determined?

The amount of support is determined by the support order. Unless the court/administrative order for support specifically allows a reduction or suspension of payments in certain periods such as unemployment, extended visitation, or change of custody, support will continue. If payments are not received by the state CSE agency according to the support order, support amount will become overdue and the non-custodial parent may be referred for Federal tax refund offset.

Although there may be good reasons why support was not paid through the state CSE agency, direct payments received by the custodial parent will not be reflected in the state CSE agency's records unless a notarized statement from the custodial parent states that certain amounts have been received.

What is the process for contesting the intercept of my tax refund?

The Secretary of the U.S. Treasury will notify the non-custodial parent that the offset has been made and of the steps to take to contest the action. If you believe that your payment was intercepted in error or if you have questions about the past-due support amount, you must contact the state CSE agency at the address shown on the notice. The U.S. Department of Treasury's Financial Management Service cannot resolve issues regarding the past-due support amount with other agencies.

Upon receipt of a complaint from the non-custodial parent, the state CSE agency will conduct a review to determine the validity of the complaint. If the review results in a deletion of, or decrease in the amount referred for offset, the state CSE agency will notify OCSE. If, as a result of the review, an amount which has already been offset is found to have exceeded the amount of past-due support owed, the state CSE agency will take steps to refund the excess amount to the non-custodial parent.