

CHAPTER 1069
CHILD CARE SETOFF AGAINST TAX REFUND
H. F. 2554

AN ACT relating to a setoff against income tax refunds and rebates of certain accrued and liquidated debts assigned to the department of social services and due and owing for the care, support or maintenance of a child.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section two hundred fifty-two B point five (252B.5), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. Assistance to set off against a debtor's income tax refund or rebate any debt, which is assigned to the department of social services or which the child support recovery unit is attempting to collect on behalf of any individual not eligible as a public assistance recipient, which has accrued through written contract, subrogation, or court judgment, and which is in the form of a liquidated sum due and owing for the care, support or maintenance of a child. The department of social services shall promulgate rules pursuant to chapter seventeen A (17A) of the Code necessary to assist the department of revenue in the implementation of the child support setoff as established under section two (2) of this Act.

Sec. 2. Section four hundred twenty-one point seventeen (421.17), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. To establish and maintain a procedure to set off against a debtor's income tax refund or rebate any debt, which is assigned to the department of social services or which the child support recovery unit is attempting to collect on behalf of any individual not eligible as a public assistance recipient, which has accrued through written contract, subrogation, or court judgment and which is in the form of a liquidated sum due and owing for the care, support or maintenance of a child. The procedure shall meet the following conditions:

a. Before setoff all outstanding tax liabilities collectible by the department of revenue shall be satisfied except that no portion of a refund or rebate shall be credited against any tax liabilities which are not yet due.

b. Before setoff the child support recovery unit established pursuant to section two hundred fifty-two B point two (252B.2) of the Code shall obtain and forward to the department of revenue the full name and social security number of the debtor. The department of revenue shall cooperate in the exchange of relevant information with the child support recovery unit as provided in section two hundred fifty-two B point nine (252B.9) of the Code.

c. The child support recovery unit shall, at least annually, submit to the department of revenue for setoff the above-mentioned debts, which are at least fifty dollars, on a date or dates to be specified by the department of social services by rule.

d. Upon submission of a claim the department of revenue shall notify the child support recovery unit whether the debtor is entitled to a refund or rebate of at least fifty dollars and if so entitled shall notify the unit of the amount of the refund or rebate and of the debtor's address on the income tax return.

e. Upon notice of entitlement to a refund or rebate the child support recovery unit shall send written notification to the debtor, and a copy of the notice to the department of revenue, of the unit's assertion of its rights or the rights of an individual not eligible as a public assistance recipient to all or a portion of the debtor's refund or rebate and the entitlement to recover the debt through the setoff procedure, the basis of the assertion, the opportunity to request that a joint income tax refund or rebate be divided between spouses, the debtor's opportunity to give written notice of intent to contest the claim, and the fact that failure to contest the claim by written application for a hearing will result in a waiver of the opportunity to contest the claim, causing final setoff by default. The child support recovery unit shall upon application grant a hearing pursuant to chapter seventeen A (17A) of the Code. Any appeal taken from the decision of a hearing officer and any subsequent appeals shall be taken pursuant to chapter seventeen A (17A) of the Code.

f. Upon the timely request of a debtor or a debtor's spouse to the child support recovery unit and upon receipt of the full name and social security number of the debtor's spouse, the unit shall notify the department of revenue of the request to divide a joint income tax refund or rebate. The department of revenue shall upon receipt of the notice divide a joint income tax refund or rebate between the debtor and the debtor's spouse in proportion to each spouse's net income as determined under section four hundred twenty-two point seven (422.7) of the Code.

g. The department of revenue shall, after notice has been sent to the debtor by the child support recovery unit, set off the above-mentioned debt against the debtor's income tax refund or rebate if both the debt and the refund or rebate are at least fifty dollars. However, if a debtor has made all current child support payments in accordance with a court order for the twelve months preceding the proposed setoff and has regularly made delinquent child support payments during those twelve months, the child support recovery unit shall notify the department of revenue not to setoff the debt against the debtor's income tax refund or rebate. The department shall refund any balance of the income tax refund or rebate to the debtor. The department of revenue shall periodically transfer the amount set off to the child support recovery unit. If the debtor gives written notice of intent to contest the claim the department of social services shall hold the refund or rebate until final disposition of the contested claim pursuant to chapter seventeen A (17A) of the Code or by court judgment. The child support recovery unit shall notify the debtor in writing upon completion of setoff.