

CHAPTER 1057
STATE INCOME TAX REFUND SETOFFS
S.F. 2180

AN ACT relating to setoffs against state income tax refunds, including claims based on defaults on guaranteed student loans and child support recovery claims, and authorizing reciprocal agreements with other states dealing with the subject matter.

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

Section 1. Section 261.37, subsection 7, Code 1981, is amended to read as follows:

7. To establish an effective system for the collection of delinquent loans, including the adoption of an agreement with the Iowa department of revenue to set off against a defaulter's income tax refund or rebate the amount that is due because of a default on a guaranteed student or parental loan made under this division. The commission shall adopt rules under chapter 17A necessary to assist the department of revenue in the implementation of the student loan setoff program as established under section 421.17 in section 2 of this Act.

Sec. 2. Section 421.17, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. To establish and maintain a procedure to set off against a defaulter's income tax refund or rebate the amount that is due because of a default on a guaranteed student or parental loan under chapter 261. 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 a refund or rebate shall not be credited against tax liabilities which are not yet due.

b. Before setoff the college aid commission shall obtain and forward to the department of revenue the full name and social security number of the defaulter. The department of revenue shall cooperate in the exchange of relevant information with the college aid commission.

c. The college aid commission shall, at least annually, submit to the department of revenue for setoff the guaranteed student loan defaults, which are at least fifty dollars, on a date or dates to be specified by the college aid commission by rule.

d. Upon submission of a claim, the department of revenue shall notify the college aid commission whether the defaulter is entitled to a refund or rebate of at least fifty dollars and if so entitled shall notify the commission of the amount of the refund or rebate and of the defaulter's address on the income tax return. Section 422.72, subsection 1, does not apply to this paragraph.

e. Upon notice of entitlement to a refund or rebate, the college aid commission shall send written notification to the defaulter, and a copy of the notice to the department of revenue, of the commission's assertion of its rights to all or a portion of the defaulter's refund or rebate and the entitlement to recover the amount of the default through the setoff procedure, the basis of the assertion, the defaulter's opportunity to request that a joint income tax refund or rebate be divided between spouses, the defaulter'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 before a specified date will result in a waiver of the opportunity to contest the claim,

causing final setoff by default. Upon application, the commission shall grant a hearing pursuant to chapter 17A. An appeal taken from the decision of a hearing officer and any subsequent appeals shall be taken pursuant to chapter 17A.

f. Upon the timely request of a defaulter or a defaulter's spouse to the college aid commission and upon receipt of the full name and social security number of the defaulter's spouse, the commission 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 defaulter and the defaulter's spouse in proportion to each spouse's net income as determined under section 422.7.

g. The department of revenue shall, after notice has been sent to the defaulter by the college aid commission, set off the amount of the default against the defaulter's income tax refund or rebate if both the amount of the default and the refund or rebate are at least fifty dollars. The department shall refund any balance of the income tax refund or rebate to the defaulter. The department of revenue shall periodically transfer the amount set off to the college aid commission. If the defaulter gives written notice of intent to contest the claim, the commission shall hold the refund or rebate until final disposition of the contested claim pursuant to chapter 17A or by court judgment. The commission shall notify the defaulter in writing upon completion of setoff.

Sec. 3. Section 421.17, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. To enter into reciprocal agreements with the departments of revenue of other states that have enacted legislation, that is substantially equivalent to the setoff procedure in section 2 of this Act. A reciprocal agreement shall also be approved by the college aid commission. The agreement shall authorize the department to provide by rule for the setoff of state income tax refunds or rebates of defaulters from states with which Iowa has a reciprocal agreement and to provide for sending lists of names of Iowa defaulters to the states with which Iowa has a reciprocal agreement for setoff of that state's income tax refunds.

Sec. 4. Section 421.17, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. To provide that in the case of multiple claims to refunds or rebates filed by the child support recovery unit under subsection 21 and the college aid commission under section 2 of this Act, that priority shall be given to claims filed by the child support recovery unit under subsection 21.

Approved March 29, 1982