

CHAPTER 21
FEDERAL OFFSET FOR IOWA INCOME TAX OBLIGATIONS
[Prior to 11/2/22, see Revenue Department[701] Ch 150]

701—21.1(421,26USC6402) Definitions. The following definitions are applicable to the federal offset program:

“*Assessment*” means the determination of a past due tax obligation and includes self-assessments. An assessment includes the Iowa income tax, interest, penalties, fees or other charges associated with the past due legally enforceable Iowa income tax obligation.

“*Department*,” “*state of Iowa*,” “*Iowa*” or “*the state*” means the Iowa department of revenue.

“*Director*” means the director of the Iowa department of revenue or the director’s authorized representative.

“*Overpayment*” means a federal tax refund due and owing to a person or persons.

“*Past due legally enforceable Iowa income tax obligation*” means a debt defined in 26 U.S.C. 6402(e)(5).

“*Resident of Iowa*” means any person with a federal overpayment for the year in which Iowa seeks offset and such person has an Iowa address listed on that person’s federal return for the tax period of overpayment.

“*Secretary*” means the Secretary of the Treasury for the federal government.

“*State income tax obligation*” or “*Iowa income tax obligation*” is intended to cover all Iowa income taxes. This term includes all local income taxes administered by the Iowa department of revenue or determined to be a “state income tax” under Iowa law. Such taxes may include but are not limited to individual income tax, income surtax, fiduciary income tax, withholding tax, or corporate income tax, and penalties, interest, fines, judgments, or court costs relating to such tax obligations.

“*Tax refund offset*” means withholding or reducing, in whole or in part, a federal tax refund payment by an amount necessary to satisfy a past due legally enforceable state income tax obligation owed by the payee (taxpayer) of the tax refund payment. This chapter only involves the offset of tax refund payments under 26 U.S.C. 6402(e); it does not cover the offset of federal payments other than tax refund payments for the collection of past due legally enforceable state income tax obligations.

“*Tax refund payment*” means the amount to be refunded to a taxpayer by the federal government after the Internal Revenue Service (IRS) has applied the taxpayer’s overpayment to the taxpayer’s past due tax liabilities in accordance with 26 U.S.C. 6402(a) and 26 CFR 301.6402-3(a)(6).

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701—21.2(421,26USC6402) Prerequisites for requesting a federal offset. The following requirements must be met before the state can request an offset of a federal overpayment against an Iowa income tax obligation:

21.2(1) The state must have made written demand on the taxpayer to obtain payment of the state income tax obligation for which the request for offset is being submitted.

21.2(2) Pre-offset notice. At least 60 days prior to requesting the offset of a taxpayer’s federal overpayment for an Iowa income tax obligation, the state of Iowa must provide notice by certified mail, return receipt requested, to the person owing the Iowa income tax liability. This notice must include information as required by 26 U.S.C. 6402 and 31 CFR 285.8.

21.2(3) The state must consider any evidence presented by the person owing the obligation and determine whether the amount or amounts are past due and legally enforceable.

21.2(4) Additional pre-offset notices. The department must provide a taxpayer with an additional pre-offset notice if the amount of the obligation to be subject to offset is increased due to a new assessment. However, a new pre-offset notice is not required if there is an increase in the amount to be offset due to accrued interest, penalties or other charges associated with an Iowa income tax obligation in which notice has previously been given.

21.2(5) Before offset of the federal refund can be requested by the state of Iowa, the person’s Iowa income tax liability must be at least \$25, unless otherwise provided based on the discretion of the

department and the Secretary. If an individual owes more than one Iowa income tax obligation, the minimum amount will be applied to the aggregate amounts of such obligations owed to Iowa.

21.2(6) Only residents of Iowa are subject to offsets under these rules.

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701—21.3(421,26USC6402) Submission of evidence. A taxpayer may challenge the offset by submitting evidence that all or part of the debt is not past due or not legally enforceable or that the address shown on the taxpayer's federal return that resulted in the overpayment is not within Iowa. The challenge must be postmarked or received within 60 days of the date of the pre-offset notice in the manner described in the pre-offset notice.

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701—21.4(421,26USC6402) Procedure after submission of evidence. Following timely receipt of evidence by the department from the taxpayer, the department will notify the taxpayer in writing whether the evidence submitted is sufficient to terminate the intended offset. If the department determines that the evidence is sufficient, the procedure to initiate the federal offset shall be terminated for that obligation and the taxpayer's record of Iowa income tax obligation for that particular obligation shall be adjusted accordingly. However, if the department determines that the evidence is insufficient to show that the amount or amounts at issue are not, in whole or in part, a past due and legally enforceable income tax obligation, or that the address shown on the taxpayer's federal return that resulted in the overpayment is not within Iowa, the department must notify the taxpayer of the decision. The challenge of an offset under these rules is subject to judicial review under Iowa Code section 17A.19.

In cases in which a taxpayer claims immunity from state taxation due to being an enrolled member of an Indian tribe who lives on that member's reservation and derives all of that member's income from that reservation, the taxpayer may refer to 31 CFR 285.8(c)(3)(ii) for additional information.

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These rules are intended to implement Iowa Code chapter 421 and 26 U.S.C. 6402(e) et seq.

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