

CHAPTER 26
SETOFF OF QUALIFYING DEBTS OWED TO PUBLIC AGENCIES

701—26.1(421) Minimum qualifying debt amounts accepted. Before a qualifying debt may be submitted by a public agency to the setoff program, the amount of the qualifying debt must be \$50 or more. The minimum amount is the total of all qualifying debt(s) owed to one public agency by one obligor.

This rule is intended to implement Iowa Code section 421.65.
[ARC 7080C, IAB 10/4/23, effective 11/13/23]

701—26.2(421) Minimum setoff amount. If the balance of a qualifying debt, according to the records of the department, reaches an amount that is less than \$50, the debt will be removed from the setoff program. The minimum amount is the total of all qualifying debt(s) owed to one public agency by one obligor.

This rule is intended to implement Iowa Code section 421.65.
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701—26.3(421) Memorandum of understanding required. Before a public agency may submit qualifying debt to the department for setoff, that public agency shall enter into a memorandum of understanding with the department. The department will reject any debts submitted by a public agency prior to the effective date of the memorandum of understanding. Prior to entering into a memorandum of understanding with the department, the public agency shall provide any relevant information required by the department.

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701—26.4(421) Certification to the department.

26.4(1) At the time a qualifying debt is submitted to the department for setoff, the public agency must certify to the department the information required by Iowa Code section 421.65(2) “a,” the amount of each obligor’s liability to the public agency, the date the debt became qualifying debt, that all liabilities submitted constitute qualifying debt, and any other relevant information required by the department.

26.4(2) In the event that there are existing liabilities in the setoff program when the public agency submits new qualifying debt for setoff, the public agency shall certify, as described in subrule 26.4(1), all qualifying debt placed in the setoff program, including qualifying debt that was previously placed in the setoff program. Qualifying debt that is not certified in the manner required by the department may be removed from the setoff program.

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701—26.5(421) Notification of change in status of debt. Each public agency that has submitted a qualifying debt for participation in the setoff program shall timely notify the department of any change in the status of the public agency’s individual debts submitted to the setoff program. This notification shall be made at the time described in the memorandum of understanding. A change in status may come from invalidation of the liability, reduction of the liability, receipt of notice of bankruptcy, or other factors.

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701—26.6(421) Multiple claims—priority of payment. In the case of multiple claims to public payments, priority shall be determined pursuant to the priority provisions found in Iowa Code section 421.65(4). Among claims entitled to the same priority pursuant to the priority provisions found in Iowa Code section 421.65(4), priority shall be determined by the date the debt became a qualifying debt, with higher priority assigned to liabilities that first became qualifying debt. If multiple claims entitled to the same priority became qualifying debt on the same day, priority shall be determined by the date

and time that the liability was first submitted to the department for setoff, with higher priority assigned to liabilities first submitted.

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701—26.7(421) Challenges.

26.7(1) Challenges may be submitted to the department via the manner described on the challenge notice furnished to the obligor by the department pursuant to Iowa Code section 421.65(2)“e.” Challenges shall be submitted within 15 days of the date of the notice. Challenges may be initiated only by an obligor.

26.7(2) Upon receipt of a challenge, the department will contact the obligor to schedule a review conference.

26.7(3) The department shall notify the public agency of the challenge. The public agency shall provide the department with any relevant information that the department requests for the challenge.

26.7(4) The public agency shall hold the setoff funds until final disposition of the challenge.

26.7(5) During the review conference, the department will review the information. After the review conference, the department will issue a determination based on the preponderance of the available information.

26.7(6) Successful challenges. The department shall notify a public agency of a successful challenge. At the direction of the department, the public agency shall refund all or a portion of the setoff amount to the obligor or return all or a portion of the setoff amount to the department. The public agency must adhere to the department’s determination and has no appeal opportunity. In the event of a successful challenge, the department shall retain the fee paid by the public agency for use of the setoff program.

26.7(7) Unsuccessful challenges. The department shall notify a public agency of an unsuccessful challenge.

26.7(8) In the event of an unsuccessful setoff challenge, an obligor may file an action in district court as described in Iowa Code section 421.65(3)“f.” The defendant shall be the public agency with an additional copy of such petition to be served upon the office of the attorney general. Neither the department nor any department officials or employees shall be named as parties in such a district court action. The public agency shall be responsible for any defense and costs.

26.7(9) The date and time of filing a challenge shall be computed in accordance with rule 701—7.4(17A).

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[ARC 7080C, IAB 10/4/23, effective 11/13/23]

701—26.8(421) Requests for division of a public payment subject to setoff.

26.8(1) Requests for division of a public payment subject to setoff may be submitted to the department via the manner described on the challenge notice furnished to the obligor by the department pursuant to Iowa Code section 421.65(2)“e.” Requests for division shall be submitted within 15 days of the date of the notice. Requests for division may be made only by an obligor or co-payee of the public payment.

26.8(2) The obligor or co-payee requesting the division of a payment must submit to the department their full name and social security number or similar identifying information for an obligor or co-payee who does not have a social security number.

26.8(3) The department shall notify a public agency of a successful request for division. At the direction of the department, the public agency shall divide a jointly or commonly owned right to payment and refund the applicable setoff amount in the manner determined by the department. The department may determine that it should refund the setoff amount to the obligor or co-payee on behalf of the public agency if the department determines, in its sole discretion, that the public agency is unable to make the payment or the requirement to make the payment would cause the public agency significant hardship. If the department determines that it should refund the setoff amount, the public agency must return the setoff funds to the department immediately after receiving notice from the department. The public

agency must adhere to the department's determination and has no appeal opportunity. In the event of a successful request for division, the department shall retain the fee paid by the public agency for use of the setoff program.

26.8(4) Any jointly or commonly owned right to payment is rebuttably presumed to be owned in equal portions by its joint or common owners.

26.8(5) The date and time of filing a request for division shall be computed in accordance with rule 701—7.4(17A).

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701—26.9(421) Transition period. Any setoff for which the public payment is made available to the public agency prior to the effective date of Iowa Code section 421.65 shall be governed by the statute, rules, and procedures related to Iowa Code section 8A.504, even if such procedures continue after the effective date of Iowa Code section 421.65.

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701—26.10(421) Fees.

26.10(1) A fee of \$7 shall be paid by participating public agencies to the department for each setoff. The public agency shall be charged the fee each time a public payment is set off and applied to the public agency's qualifying debt. The fee shall be taken by the department out of the setoff funds before the department transfers such funds to the public agency.

26.10(2) The fee shall not be collected by the public agency via the setoff program unless it is a qualifying debt as defined in Iowa Code section 421.65(1) "d."

26.10(3) The department shall retain the fee regardless of the outcome of any challenge or requests for division of public payments.

26.10(4) Examples.

EXAMPLE 1: Setoff fee is not qualified debt: Debtor A owes \$100 of qualified debt to Public Agency Z and \$200 of qualified debt to Public Agency Y. Public Agency Z submits \$100 to the setoff program, and Public Agency Y submits \$207 to the setoff program (\$200 of qualified debt and \$7 for the setoff fee). The department would accept the placement from Public Agency Z and would try to match public payments for setoff. The department would reject the placement from Public Agency Y and not match it with public payments. Additionally, the department would grant any challenges for setoff fees that were rolled up and resubmitted to the setoff program.

EXAMPLE 2: Setoff fee is not refundable: Debtor A successfully challenges a setoff placed by Public Agency Z for \$100. Public Agency Z will return \$100 to Debtor A. The department will not return the fee to Public Agency Z.

EXAMPLE 3: Setoff fee is credited against qualified debt: Debtor A owes \$100 of qualified debt to Public Agency Z. Public Agency Z submits \$100 to the setoff program. The setoff program matches a \$50 public payment with Debtor A. The department will distribute \$43 to Public Agency Z and keep \$7 for the setoff fee, and Debtor A will have a remaining balance of \$50.

EXAMPLE 4: Setoff fee is taken per distribution:

Public Agency Z places \$100 for Debtor A. The setoff program matches one public payment. The department would take one setoff fee when it distributes the funds to Public Agency Z.

Public Agency Z places \$100 for Debtor A. The setoff program matches two public payments from two different sources. The department would take two setoff fees when it distributes the funds to Public Agency Z.

Public Agency Z places \$100 for Debtor A and \$100 for Debtor B. The setoff program matches one public payment for Debtor A and one public payment for Debtor B. The department would take two setoff fees when it distributes the funds to Public Agency Z.

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