

**441—98.83(252B) Offset against state income tax refund or rebate.** The department will make a claim against an obligor's state income tax refund or rebate when a support payment is delinquent as set forth in 11—Chapter 40. A claim against an obligor's state income tax refund or rebate shall apply to support which the department is attempting to collect.

**98.83(1)** By the first day of each month, the department shall submit to the department of administrative services a list of obligors who are delinquent at least \$50 in support payments.

**98.83(2)** When the department claims an obligor's state income tax refund or rebate, the department shall send a preoffset notice to the obligor to inform the obligor of the amount the department intends to claim and apply to support. The department shall send a preoffset notice when:

*a.* The department of administrative services notifies the department that the obligor is entitled to a state income tax refund or rebate; and

*b.* The obligor has a delinquency of \$50 or greater.

**98.83(3)** When the obligor wishes to contest a claim, a written request shall be submitted to the department within 15 days of the date of the preoffset notice. When the request is received within the 15-day limit, a hearing shall be granted pursuant to rules in 441—Chapter 7. Except as specifically provided in this rule, administrative appeals will be governed by 441—Chapter 7. The issue on appeal shall be limited to a mistake of fact. Any other issue may be determined only by a court of competent jurisdiction.

**98.83(4)** The spouse's proportionate share of a joint return filed with an obligor, as determined by the department of revenue, shall be released by the department of revenue unless other claims are made on that portion of the joint income tax refund. The request for release of a spouse's proportionate share shall be received by the department within 15 days of the date of the preoffset notice.

**98.83(5)** The department shall refund any amount incorrectly offset to the obligor unless the obligor agrees in writing to apply the refund of the incorrect offset to any other support obligation due.

**98.83(6)** The department shall notify an obligor of the final decision regarding the claim against the tax refund or rebate by sending a final disposition of support recovery claim notice to the obligor.

**98.83(7)** Offsets shall be applied as provided in rule 441—95.3(252B).

This rule is intended to implement Iowa Code sections 8A.504, 252B.3, 252B.4 and 252B.5(4).

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