

**701—21.3(421,26USC6402) Prerequisites for requesting a federal offset.** The following are the requirements that the state of Iowa must meet before the state can request an offset of a federal overpayment against an Iowa income tax obligation:

**21.3(1) *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 state the following information:

- a.* That the state proposes to request the offset of the person's federal overpayment against a specified Iowa income tax obligation and that such an obligation is past due and legally enforceable;
- b.* That the authority for this offset is Internal Revenue Service Restructuring and Reforms Act of 1998, Pub. L. 105-206, 112 Stat. 685, 779 (1998), as implemented by this chapter;
- c.* That the person owing the obligation has 60 days from the date of the notice to present evidence to the department that all or part of the obligation at issue is not past due or not legally enforceable;
- d.* The mailing address for submitting such evidence;
- e.* That failure to timely submit the evidence waives the taxpayer's right to protest the amount, validity or qualification of the Iowa income tax obligation for offset at any time in the future; and
- f.* Where contact can be made with the department for additional information or questions.

**21.3(2)** 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.

**21.3(3)** 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.

**21.3(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 to be sent to the taxpayer by the department 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.

**21.3(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.

**21.3(6)** Offset applies to residents of Iowa as defined under these rules.  
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