



SC REVENUE PROCEDURE #88-1

SUBJECT: Set-off Debt Collection Procedures

EFFECTIVE DATE: October 15, 1988

SUPERSEDES: All previous documents and any oral directives in conflict herewith

REFERENCE: S.C. Code Ann. Sections 12-54-410 through 12-54-500

AUTHORITY: S.C. Code Ann. Section 12-3-130 (1976)
S.C. Code Ann. Section 12-54-500

SCOPE: A Revenue Procedure is a statement describing agency procedures and is applicable only to employees of the South Carolina Tax Commission.

PURPOSE: To provide procedures and dates relating to the Set-off Debt Collection Act

A. Definitions

For purposes of this procedure the following definitions as provided under Section 12-54-420 are applicable.

(1) 'Claimant agency' means any state agency, board, committee, commission, public or private institutions of higher learning, and the Internal Revenue Service.

(3) 'Debtor' means any individual having a delinquent debt or account with any claimant agency which has not been adjusted, satisfied, or set aside by court order, or discharged in bankruptcy.

(4) 'Delinquent debt' means any liquidated sum due and owing any claimant agency, including court costs, fines, penalties, and interest which have accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum which is legally collectible and for which a collection effort has been or is being made.

(5) 'Refund' means any individual or corporate South Carolina income tax refund payable. This term also includes any refund belonging to a debtor resulting from the filing of a joint income tax return.

B. Application for Participation and Priority of Claims

(1) On or before August 31st of each year, claimant agencies must furnish to the Commission information listed below with respect to their participation in the program for the following calendar year. This application is effective only to initiate set-off against refunds in the subsequent calendar year.

a) The name, address and telephone number of the individual or section to whom the Commission should direct inquiries, if further information is required.

b) An estimate of the number of accounts to be forwarded for possible set-off.

c) A letter of authorization from the claimant agency head which includes the name, title and sample signature of the person(s) authorized to make requests for service.

(2) A magnetic tape is the transmitting medium. Exceptions will be made for those claimant agencies with no programming capability for this purpose. A written explanation as to physical inability to produce the required medium must be sent to the Commission with the application to participate. The Commission will advise the requesting agency, by September 30th, of the acceptability of the request. (Format and technology considerations will be provided by the Commission.)

(3) Priority in multiple claims to refunds allowed to be set-off must be in the order in time which a claimant agency has filed an application of participation with the Commission. However, claims filed by any agency of state government have priority over claims filed by the Internal Revenue Service or an institution of higher learning. Notwithstanding this priority according to time of filing, the Commission has priority over all other claimant agencies for collection by set-off whenever it is a competing agency for a refund.

C. Certification of Debt File

(1) Between November 1st and December 10th, each year, claimants must forward a magnetic tape of their debt files certifying them for collection. Claims can only be sent to the Commission during the period from November 1st through December 10th. The Commission may reject claims postmarked prior to November 1 or after December 10th.

(2) Claimant agencies must submit to the Commission a list of claims which includes:

- a) Debtor's name
- b) Social security number
- c) Agency number (code)
- d) Agency I.D. number (fund)
- e) Debt amount

(3) It is extremely important that the above information is transmitted accurately. It shall be the responsibility of the claimant agency to ensure the accuracy of claims submitted. No claims will be processed unless submitted in required form.

(4) The certification of list of claims is effective only against refunds issued in the subsequent calendar year.

D. Resubmission of Data Changes

The certified list of claims must be submitted to the Commission by December 10th of each calendar year. Changes such as deletions of incorrect accounts due to erroneous numbers, reductions in debt amount, and corrections to taxpayer name may be made. The amount of set-off requested cannot be increased and new accounts cannot be added after December 10th. After December 10th, deletions, reductions, and corrections can be made only by returning a corrected tape.

E. Refund Match to Claimant's Claim

Upon receiving the certification of the claimant agency, the Commission shall determine if the debtor is due a refund in excess of \$25. If a refund in excess of \$25 is due, the Commission shall set-off the delinquent debt against the amount of the refund. The Commission may retain up to \$25 to defray its administrative expense. When the claimant agency is the Internal Revenue Service, the Commission shall not charge an administrative fee and the total refund is available for set-off.

The Commission is not required to apportion refunds resulting from joint returns. The certified delinquent debt and debtor list provided by a claimant agency shall be presumed correct by the Commission.

F. Transmittal of Funds and Accounting of set-off to Claimant Agency

At the time of transmittal of the funds to the claimant agency, the Commission shall provide the agency an accounting of the funds.

The accounting must include the full name of the debtor, the debtors social security number, amount of debt set-off, and the administrative fee charged.

G. Notification of Debtor and Review by Claimant Agency

(1) Upon receipt by a claimant agency of the funds collected and an accounting of the funds, the claimant agency shall notify the debtor in writing of the set-off.

(2) Any review of refund set-offs is with the claimant agency. If after review the claimant agency determines the set-off amount to be excessive, the claimant agency shall refund the appropriate amount to the taxpayer. If it is determined the claimant agency is not entitled to any of the amount set-off, it shall refund the entire amount plus the administrative fee charged by the Commission. The administrative fee refunded shall be paid from the claimant agencies funds. The claimant agency, except the Office of Child Support Services of DSS, shall pay interest to the taxpayer to be calculated as provided in Section 12-54-20.