**R21. Government Operations, Debt Collection.**

**R21-3. Debt Collection Through Administrative Offset.**

**R21-3-1. Purpose.**

The purpose of this rule is to establish procedures to be followed by agencies to reduce or eliminate accounts receivable through administrative offset of tax overpayments or state payments due to entities.

**R21-3-2. Authority.**

This rule is authorized under Section 63A-3-310 and Subsection 63A-3-504(2)(f), which authorize the Division of Finance to establish, by rule, an implementation of the debt collection technique of administrative offset.

**R21-3-3. Definitions.**

In addition to terms defined in Section 63A-3-501, the following terms are defined as follows:

(1) "Division" means the Division of Finance.

(2) "Match" or "matched" means a one-to-one corresponding of a social security number or a federal employer's identification number between the entity and the tax overpayment or other state payment to the entity.

**R21-3-4. Eligible Accounts Receivable.**

(1) If a delinquent account receivable meets the criteria established under Section 59-10-529, an agency shall proceed under this rule to collect the delinquent amount against tax overpayments.

(2) If a delinquent account receivable meets the criteria established under Section 63A-3-302, an agency shall proceed under this rule to collect the delinquent amount against tax overpayments or state payments due to entities.

**R21-3-5. Submission of Accounts Receivable to the Division.**

(1) Upon qualifying the account for administrative offset as established in Section R21-3-4, the agency shall submit the account receivable to the division. The account receivable submission shall include the:

(a) name of the entity;

(b) social security number or federal employer's identification number of the entity; and

(c) amount of the delinquent account receivable.

(2) Once the account has been established for administrative offset, it matches continuously from the date of the establishment until the account receivable is totally satisfied.

**R21-3-6. Control of Matched Tax Overpayments or Payment Due to Entity by the Division.**

The division shall place the entity's matched tax overpayment or payment due to entity in a separate agency fund in the state's accounting system (FINET).

**R21-3-7. Notification to Debtors.**

(1) Any notification authorized under Section 63A-3-303 must be sent within two business days of the date listed on the notice.

(2) Any notification sent to a joint filer must include instructions regarding defenses, such as injured spouse treatment authorized under Section R21-3-9 and the right to administrative hearing authorized under Section 63A-3-306.

**R21-3-8. Notification and Response.**

(1) The division shall notify the agency submitting the account receivable of each administrative offset match.

(2)(a) The agency shall verify the delinquent account balance; and

(b) notify the division of the amount to be offset.

(3) The amount shall include the outstanding balance of the delinquent account receivable plus any penalty, interest, or applicable collection costs.

(4) The agency shall identify for the division the exact amount to be offset as early as practicable.

**R21-3-9. Treatment of Injured Spouse Forms.**

(1) Subject to Subsection R21-3-9(2), upon receipt of an injured spouse claim from the spouse of a debtor, a levying agency shall:

(a) review the claim for validity;

(b) determine the frequency of claims made; and

(c) when a claim is approved by the levying agency, release the offset of matched funds proportionate to the income of the injured spouse using the following formula: (income of injured spouse/total household gross income) x levied amount.

(2) Recognizing that levying agencies are not statutorily required to honor injured spouse claims:

(a) agencies levying taxes under this section must honor at least a first-time injured spouse claim that is determined to be valid if the claim is received within 21 calendar days of the date of the notification required under Section R21-3-7. Claims that are not received within 21 days may be denied at the discretion of the levying agency.

(b) subsequent claims may be denied at the discretion of the levying agency.

(3) Valid injured spouse claims should require at a minimum:

(a) federal tax returns;

(b) IRS Form 8379;

(c) income documents, including any Form W-2s and Form 1099s; and

(d) state tax returns.

**R21-3-10. Offsetting Matched Accounts.**

(1) The division will offset the matched entity tax overpayment or payment due to entity by:

(a) an administrative fee which shall be charged for performing debt collection functions associated with the administrative offset; and

(b) the amount identified in Subsection R21-3-8(3) to satisfy the delinquent account receivable.

**R21-3-11. Release of Matched Accounts by the Division.**

(1) In the event of a declared state of emergency, the division may suspend matching receivables in the administrative offset program subject to the following conditions.

(a) The suspended matching of receivables submitted under this rule may not infringe upon the rights of victims. Receivables collected on behalf of victims may include restitution orders, wage claims, and past due child support.

(b)(i) Before suspension, the division shall notify affected agencies in writing.

(ii) The division is not required to receive consent from agencies submitting receivables under this rule.

(2) If a matched account is not levied within 21 days of the date matched, the division shall release the tax overpayment or other state payment to:

(a) first, the next agency with a matched receivable that is not suspended, if any; or

(b) second, the entity to which the tax overpayment is owed or the entity for which the payment is due.

**R21-3-12. Release of Offset Funds by the Division.**

(1) The division shall keep the administrative charge.

(2) The division shall release the offset funds to the agency.

(3) The division shall release the balance of any available funds from the match to the entity.

**R21-3-13. Credit of Accounts Receivable.**

Upon receipt of the offset funds from the division, the agency shall deposit the amount into their account and credit the entity's accounts receivable for the amount received.

**R21-3-14. Administrative Fee.**

Authorized by Subsection 63A-3-502(4), the division may charge the agency a fee for the debt collection effort. This fee may be deducted from the amounts collected.

**KEY: accounts receivable, administrative offset**

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