

**State of Utah**  
**Administrative Rule Analysis**  
 Revised December 2019

NOTICE OF EMERGENCY (120-DAY) RULE		
	<b>Title No. - Rule No. - Section No.</b>	
<b>Utah Admin. Code Ref (R no.):</b>	<b>R21-3</b>	<b>Filing No. 52674</b>

**Agency Information**

<b>1. Department:</b>	Administrative Services	
<b>Agency:</b>	Debt Collection	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 South 2700 West Floor 3	
<b>City, state, zip:</b>	Taylorsville, UT 84127-2128	
<b>Mailing address:</b>	Division of Finance	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-1031	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
John Reidhead	801-957-7734	jreidhead@utah.gov
Cory Weeks	801-957-7713	cweeks@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R21-3. Debt Collection Through Administrative Offset
<b>3. Effective Date (mm/dd/yyyy):</b>
04/20/2020
<b>4. Purpose of the new rule or reason for the change:</b>
The purpose of this rule allows the Office of State Debt Collection to suspend matching receivables in the event of a declared state of emergency. This was necessitated by COVID-19 economic relief measures approved by the governor's office.
<b>5. Summary of the new rule or change:</b>
The added language to the rule explains how the division may suspend matching receivables in the administrative offset program in the event of a declared state of emergency.
<b>6. Regular rulemaking would:</b>
<input checked="" type="checkbox"/> cause an imminent peril to the public health, safety, or welfare;
<input type="checkbox"/> cause an imminent budget reduction because of budget restraints or federal requirements; or
<input type="checkbox"/> place the agency in violation of federal or state law.
<b>Specific reason and justification:</b>
This rule change authorizes actions taken as part of the state's COVID-19 relief efforts.

**Fiscal Information**

<b>7. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
\$330,000 lost FY2020 revenue to the Division of Finance estimated from fees that would have been collected on levies had the office not halted operations.
It is also estimated that the State Government will have about \$4.6 Million in lost collection of receivables for FY2020.
If the actions in this rule are exercised again in the future, timing impacts make future years inestimable.

<b>B) Local governments:</b>
It is estimated that Local governments will have about \$500,000 in lost collection of receivables in FY2020.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There should be no impact for small businesses. This rule only applies to government entities.
<b>D) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
Individuals that otherwise would have been garnished will receive a cumulative benefit of \$5.43 Million, equal to the amount of estimated lost revenues and collections for state and local governments.
<b>8. Compliance costs for affected persons:</b>
None. The only cost of compliance is hours spent by Division of Finance staff.
<b>9. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>
I have reviewed this fiscal analysis, and agree with the described fiscal impacts associated with this rule. Tani Pack Downing.
<b>B) Name and title of department head commenting on the fiscal impacts:</b>
Tani Pack Downing, Executive Director, Department of Administrative Services.

**Citation Information**

<b>10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</b>		
Section 63A-3-310	Subsection 63A-3-504 (2)(f)	

**Agency Authorization Information**

<b>To the agency:</b> Information requested on this form is required by Sections 63G-3-301, 304, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying the effective date and publication in the <i>Utah State Bulletin</i> .		
<b>Agency head or designee, and title:</b>	John Reidhead, Director	<b>Date</b> (mm/dd/yyyy): 04/20/2020

**R21. Administrative Services, 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 established pursuant to Subsection 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 below 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:

(a) name of entity;

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

(c) amount of delinquent account receivable; and

(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.**

All notifications required in 63A-3-303 must be sent within two business days of the date listed on the notice.

**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(s) 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 garnisher shall:
  - (a) Review the claim for validity;
  - (b) Determine the frequency of claims made; and,
  - (c) 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 garnishers are not statutorily required to honor injured spouse claims:
  - (a) Agencies garnishing taxes under this section must honor at least a first-time injured spouse claim that is determined to be valid.
  - (b) Subsequent claims may be denied at the discretion of the garnisher.
- (3) Valid injured spouse claims should require at a minimum:
  - (a) Federal tax returns
  - (b) IRS Form 8379
  - (c) Income documents, including all Form W-2s and Form 1099s.
  - (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; plus
  - (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:

(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) The division is not required to receive consent from agencies submitting receivables under this rule, but is required to notify parties listed by the agency in writing prior to suspension.

(2) If a matched account is not garnished 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-~~11~~12. Release of Offset Funds by the Division.**

- (1) The division shall retain 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-~~12~~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-~~13~~14. Administrative Fee.**

Pursuant to Section 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**

**Date of Enactment or Last Substantive Amendment: [~~August~~April 7, [2019]2020**

**Notice of Continuation: March 17, 2017**

**Authorizing, and Implemented or Interpreted Law: 63A-3-310; 63A-3-504(2)(f)**