

Revenue Recapture

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Collection Fact Sheet 5

Fact Sheet

Revenue Recapture Program

The Revenue Recapture Act legislation enacted in 1980 (M.S. 270A.01 to 270A.12) created a program authorizing the Minnesota Department of Revenue to intercept—or recapture—taxpayer refunds and apply them to debts the taxpayers owe to other state agencies, the University of Minnesota and to certain local governmental units.

The revenue recapture program is in addition to, and not a substitute for, any other means of collection by claimant agencies.

Claimant Agencies

Claimant agencies include:

- State agencies
- The regents of the University of Minnesota
- Any district court of the state
- Any county
- Any city
- Municipal owned hospitals
- A private nonprofit hospital that leases its building from the county in which it is located
- Any public agency responsible for child support enforcement
- Any public agency responsible for the collection of court-ordered restitution
- The Revenue Collection Division
- A private ambulance service that is governed by statute 144E

Debtors

A debtor is an individual person who is obligated to pay a debt to a claimant agency or is delinquent with a public agency responsible for child support enforcement. For purposes of revenue recapture, a debtor does not include businesses or corporations.

Qualifying Debts

A debt is a person's legal obligation to pay a fixed and certain amount of money to a claimant agency. The debt may be from a contractual or statutory obligation, a court order or other legal obligation. It does not need to have been reduced to judgment.

To qualify for revenue recapture, the debt must be \$25 or more and may include criminal fines, restitution (money due to the victim of a crime or a juvenile offense as ordered by the court), and co-payments for the appointment of a district public defender.

Debts that do not qualify for revenue recapture and cannot be submitted for collection include:

- Medical care or hospitalization debts for which the debtor's income at the time the care was rendered did not exceed amounts provided by law (M.S. 270A.03, subd. 5)
- Overpayments of assistance owed by current recipients of assistance
- Debts for which there is a written payment agreement between the claimant agency and the debtor that prohibits recapture and the debtor is current on the payments
- Debts for which the collection attempt would result in the loss of federal funds
- Debts for which the time period allowed by law for collection has expired

Refunds Recaptured

Once a claim is filed, the following refunds and payments due the taxpayer will be intercepted:

- Individual income tax refunds (Form M1)
- Property tax refunds (Form M1PR)
- Political contribution refunds (Form PCR)
- Lottery winnings of \$600 or more
- Sustainable forest tax payments
- Awards from the joint legislative subcommittee on claims

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Recapture Process

1. If any agency wishes to participate in the Revenue Recapture Program, contact Revenue.Recapture@state.mn.us for the registration and training information.
2. No later than five days after sending the claim to the department, the agency must notify the debtor in writing at his or her last known address. The notice must contain:
 - Basis for the claim to the refund (including the name of any benefit program);
 - Dates on which the debt was incurred;
 - The agency's intention to request setoff of refunds against the debt, unless the time period allowed by law for collecting the debt has expired;
 - The debtor's right to contest the validity of the claim at a hearing.

If the notice is returned as undeliverable, or the agency has reason to believe the debtor did not receive the notice, the agency may ask the department to try to locate a more current address.
3. When the tax returns are processed, the department will:
 - Deduct the amount from the taxpayer's refund and issue a payment to the agency (the agency will receive one electronic payment per day that includes all offset payments processed that day);
 - Provide information to the agency indicating the amount applied against the claim and the debtor's address listed on the tax return;
 - Notify the taxpayer of the amount setoff, provide the address of the claimant agency and advise the debtor of the right to contest the validity of the claim;
 - Update the claim with the amount offset and calculate the balance remaining.

Questions and Answers

Is there a fee for filing?

A fee is not due when the claim is filed. If a refund is intercepted, a \$15 fee for each claim offset will be deducted from the debtor's refund. The amount of the claim or the balance of the refund, whichever is less, will be forwarded to the agency.

How long is the claim in effect?

Claims are in effect until the debt is paid or canceled.

Who gets priority if there is more than one claim against a debtor?

If two or more qualifying debts are submitted for setoff and the total exceeds the debtor's refund, the refund will be applied to the debts in the following order:

1. debts for child support
2. payment of restitution obligations
3. health care debts
4. remaining debts in the order certified

*This listing is for recapture priorities AFTER any refunds have applied to TAX DEBT.

When two or more agencies have the same priority, the claim that has the oldest claim date will be paid first. If the claim date is the same, it will pay the one with the oldest claim document number first. If the debts are less than the refund amount, the difference will be issued to the taxpayer. When authorized by law, refunds can also be applied to other kinds of debt that are not revenue recapture claims.

Who notifies the debtor that a claim has been filed against his or her refunds?

The claimant agency notifies the debtor at the time the claim is filed, and the department notifies the debtor at the time the refund is sent to the agency.

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When does the department issue tax refunds?

Income tax refunds are issued daily beginning approximately January 15. Property tax refunds are issued beginning approximately August 1 for renters and September 15 for homeowners. Smaller volumes of refunds on delinquent and amended returns are issued throughout the year.

How are joint refunds handled?

The department will remit the joint refund to the claimant agency, even if only one spouse is liable for the debt. However, if requested, the agency is required to divide the refund based on the proportionate share that each spouse contributed to the total income for that year and refund the portion belonging to the nonliable spouse. For court fines, fees, surcharges and court-ordered restitution, the notice provided by the department serves as the appropriate legal notice to the spouse who does not owe the debt.

How can debtors contest the validity of claims?

To contest the validity of the claim, the debtor must submit a written request to the claimant agency. The agency must receive the request within 45 days after it has mailed the original or corrected notice of the claim to the debtor. If the debtor claims he or she did not receive the notice from the agency, the 45 days does not begin until the debtor has received the actual notice. In these cases, the debtor has the burden of showing that notice was not received and is entitled to a hearing on the issue of notice as well as on the merits. The claimant agency must initiate a hearing no later than 30 days after receiving the debtor's request to contest the claim. The hearing must be held according to contested case procedures established in the state Administration Procedure Act. This right does not apply to issues relating to the validity of the claim that have been previously raised at a hearing or previously litigated, or issues that were not timely raised by the debtor.

What information is private?

For each debt submitted for revenue recapture, the claimant agency must provide the name and Social Security number of the debtor, and any other identifying information required. When reporting revenue recapture payments to the agency, the department may disclose only the debtor's name, address, Social Security number, the amount of the refund, and in the case of a joint refund, the name of the debtor's spouse.

Data collected by the department from claims filed for revenue recapture by claimant agencies are private data on individuals. Any person employed by, or formerly employed by, a claimant agency who discloses any such private information for any other purpose is subject to civil and criminal penalties.

What rules govern Revenue Recapture?

Under Minnesota Rule 8165.0200, the department is authorized to investigate any complaint made against claimant agencies for not following all the requirements of the Revenue Recapture Act. If a claimant agency is found to be in violation of the act, even after written notice of a violation and an opportunity for a hearing has been given, the agency can be suspended from using the Revenue Recapture Act.

Need Additional Information?

Contact:

E-mail: Revenue.Recapture@state.mn.us

Revenue Recapture Unit: 651-556-3037

TTY: Call 711 for Minnesota Relay

Fax: 651-556-5116

Or write to:

Minnesota Revenue

Collection Division

PO Box 64447-RRU

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