



FAMILY INDEPENDENCE ADMINISTRATION

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Policy, Procedures and Training

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POLICY BULLETIN #06-25-OPE

STATE TAX REFUND OFFSET PROGRAM: WATTS v. WING SETTLEMENT TERMS

Date: February 22, 2006	Subtopic(s): Budgeting
<input checked="" type="checkbox"/> This procedure can now be accessed on the FIAweb.	<p>The purpose of this policy bulletin is to inform Job Center staff of the settlement terms of the <u>Watts v. Wing</u> class action lawsuit.</p> <p>Previously, New York State (NYS) collected public assistance (PA) overpayments from the State income tax refunds of public assistance participants. This was known as the State Tax Refund Offset Program (STROP).</p>
Request for a review	<p>As a result of the <u>Watts v. Wing</u> ("Watts") settlement, individuals impacted by STROP are now given the opportunity to request a review. This review will determine whether the PA overpayments were properly collected and may entitle these individuals to a STROP refund.</p> <p>The STROP refund payment is not countable as income or as a resource for PA, food stamps (FS) and Medicaid.</p>
Notices to <u>Watts</u> class members	<p>The NYS Department of Taxation and Finance (DTF), on behalf of the Office of Temporary and Disability Assistance (OTDA), began sending notices (see Attachment A), referred to as "re-notices," to <u>Watts</u> class members in February 2006. Each month through December 2006, re-notices will be mailed by DTF to a portion of the class members.</p>
Class members must request a review within 60 days of the re-notice	<p>OTDA will handle the requests for review by class members and issue refunds if appropriate. However, Job Center staff will be responsible for telling class members who receive the re-notice and question it that they must request their review within 60 days of the</p>

HAVE QUESTIONS ABOUT THIS PROCEDURE?
Call 718-557-1313 then press 2 at the prompt followed by 765 or
send an e-mail to *FIA Call Center*

Distribution: X

date of the re-notice or lose their right to a review. The Review Request Form (**Attachment B**) and a postage paid business reply envelope are provided in the same envelope with the re-notice mailed by DTF. The information that the class members receive also includes "A Letter to You from Your Lawyers" (**Attachment C**).

In the event that an individual loses the business reply envelope or asks for the mailing address for the Review Request Form or for a copy of the Review Request Form, the address is:

Mailing address for
Review Request Form

Attn: STROP
A&QC Riverview Center, 4th Floor
NYS Office of Temporary and Disability Assistance
40 North Pearl Street
Albany, NY 12214-0737

STROP administrative
review

Upon receipt of the Review Request Form, OTDA will forward the request to the Office of Revenue and Administration (ORA) Claims and Collections Division to conduct the STROP administrative review.

STROP refund
entitlement

When a class member is entitled to a refund, the refund will be issued by OTDA. The debt that was the basis for the refund will be terminated, even if there is a balance unrelated to the STROP collection. The ORA Division of Financial Review and Processing (DFRP) will enter PA Recoupment Code **3** (Suspend Claim) in the Welfare Management System (WMS) to reflect this action.


STROP refund denial

Class members who are not entitled to a refund will receive an OTDA denial letter along with an informational letter regarding child support (**Attachment D**). The informational letter states that if child support was collected during the period the debt was incurred, individuals may be eligible for a reduction in the debt if the child support amount collected should have reduced the debt but was not considered when the amount of debt was calculated. Staff should tell individuals with any questions regarding this letter to contact ORA at the address and phone number listed on the child support informational letter.

Effective Immediately

Reference:

06-INF-06

 Please use Print on Demand to obtain copies of forms.

Attachments:

- Attachment A** NYS Department of Taxation and Finance STROP Notice
- Attachment B** Review Request Form
- Attachment C** A Letter to You from Your Lawyers
- Attachment D** Informational Letter Regarding Child Support

NOTICE

(CONSULTE LA VERSION EN ESPANOL DE ESTE AVISO)

[Date]

[Name of Plaintiff]
[Address of Plaintiff]Re: Past Offset of Public Assistance Debt
County/Case Number [County/Case No.]

Dear Sir or Madam:

In 1997 and/or 1998, all or part of your state income tax refund was taken ("offset") to pay for the public assistance overpayment debt described below. We referred your debt to the New York State Department of Taxation and Finance ("Tax Department") because the records of your local social services district showed that you owed the New York State Office of Temporary and Disability Assistance ("OTDA") for a past overpayment of public assistance benefits.

Amount of overpayment debt:
Amount of debt actually offset:
Year of offset:

We are sending you this notice because of the settlement of a class action lawsuit. Because your tax refund was offset, you are considered a member of the plaintiff class in that case. As a result of the settlement, we are giving you an opportunity to request a review about whether your debt should have been referred to the Tax Department for offset against your tax refund. If you want a review, you must request it **within 60 days of the date of this notice on the form we have enclosed with this letter**. If we conclude that your debt should not have been offset in whole or in part, we will refund to you the amount that should not have been taken. However, you may still have other debts to OTDA that remain subject to collection.

A letter to you from the attorneys for the plaintiff class in the lawsuit providing additional information is enclosed. Please read this notice and the enclosed letter from the plaintiffs' attorneys carefully and consider what action, if any, you wish to take in connection with the review process described above.

Should You Ask for a Review?

If any of the following circumstances is true, you should notify us by requesting a review:

1. You never received a notice about the overpayment debt that offered you an opportunity to contest it at a fair hearing;
2. You were denied a fair hearing because your public assistance case was closed;
3. You were receiving public assistance on the date your tax refund was taken;
4. You were mistakenly identified as owing an overpayment debt when another individual was in fact the debtor;

5. You filed for bankruptcy and the automatic bankruptcy stay was in effect at the time your tax refund was taken or the debt had been discharged by the bankruptcy court before your tax refund was taken (if this applies, you should send documents showing when the bankruptcy petition was filed and a copy of the order of discharge); or
6. Your overpayment amount was overstated and there was an over-collection of your tax refund.

How to Ask for a Review

If you decide to request a review, you must complete the enclosed form ("REVIEW REQUEST FORM") with your signature, social security number, current mailing address, and the date, and mail it in the enclosed pre-addressed, postage-paid envelope, **within 60 days of the date of this notice**. If you believe your debt should not have been offset because you were involved in a bankruptcy proceeding, you must send documentation showing when the bankruptcy petition was filed and a copy of the order of discharge.

We will inform you in writing of our decision about your offset no more than seven months after we receive your request for a review.

If you have any questions about this letter or want more information about your overpayment debt, you may contact your local social services district. However, to obtain a review it is **not enough** just to contact your local social services district. You **must** make a written request for review in accordance with the procedure described above.

If you make or provide any knowingly false or frivolous statements, representations, or evidence, you may be liable for civil and/or criminal penalties under applicable law.

Attachment B

REVIEW REQUEST FORM

IF YOU WISH TO REQUEST A REVIEW OF YOUR OFFSET, PLEASE FILL IN YOUR SOCIAL SECURITY NUMBER, YOUR MAILING ADDRESS, YOUR SIGNATURE, AND TODAY'S DATE IN THE BLANKS ON THIS FORM, AND MAIL THE FORM IN THE ENCLOSED PRE-ADDRESSED, POSTAGE-PAID ENVELOPE.



CONTROL #:

NAME: _____

SSN: _____

CASE NUMBER: _____

District: _____

MAILING ADDRESS: _____

Street name and number and apartment number (if any), or P.O. Box

City

State

Zip Code

I HEREBY REQUEST A REVIEW OF THE OFFSET OF MY PUBLIC ASSISTANCE (PA) DEBT.

SIGNATURE _____

DATE _____

If you believe your debt should not have been offset because you were involved in a bankruptcy proceeding, you must send documentation showing when the bankruptcy petition was filed and a copy of the order of discharge.

Attachment C

A Letter to You From Your Lawyers

Dear Sir or Madam:

Do not worry. The notice you are getting in this envelope from the Office of Temporary and Disability Assistance (OTDA) is not to tell you that you owe money to OTDA. It is not a bill.

OTDA's notice is only to tell you that, some time during 1997 and/or 1998, they took some or all of your New York State income tax refund. OTDA took your refund back then because they decided you owed money for a past overpayment of public assistance (welfare).

Before the State can take your tax refund to repay a debt, they are supposed to follow certain rules. Because we believed OTDA did not follow all the rules, we filed two class action lawsuits called Watts v. Wing and Danzler v. Wing. We filed these cases for everyone like you, who had their income tax refunds taken during 1997 and/or 1998 by OTDA to collect past overpayments of public assistance.

These lawsuits have now been settled. Because of the settlement, OTDA is giving you this chance to ask for a review of your case. If you ask for a review by completing and submitting the enclosed form to OTDA, OTDA will look at your file to see if all the rules were followed before they took your tax refund. If the rules were not followed, OTDA will return some or all of the tax refund taken.

A form is enclosed for you to sign and return in the pre-addressed envelope if you want OTDA to review your case. You must sign and return the form within the next 60 days if you want the review. We strongly advise you to ask for a review if you think that your tax refund was improperly taken to collect the overpayment debt.

OTDA will notify you of its decision after its review. If OTDA decides some or all of your money should not have been taken, you will get some or all of your income tax refund returned to you.

Sincerely yours,

Jane Greengold Stevens, Esq.
Constance P. Carden, Esq.
New York Legal Assistance Group
450 West 33rd Street, 11th Floor
New York, NY 10001-2603
Plaintiffs' Lawyers in Watts v. Wing

Susan C. Antos, Esq.
Barbara Weiner, Esq.
Greater Upstate Law Project, Inc.
119 Washington Avenue
Albany, New York 12210
Plaintiffs' Lawyers in Danzler v. Wing

Attachment D

We took your tax refund in 199X to recover a public assistance overpayment in the amount of _____ for the months of _____. If child support was collected on your behalf by the local social services district during any of these months, you may be able to reduce the debt that you owe. This is true if:

1. Child support was collected and kept by the local social services district during any month that you were overpaid.
2. The child support collected was paid when it was due. This is called "current" child support and means it can not be a payment on arrears.
3. The child support collected has not already been applied to reduce your debt.

ALL THREE STATEMENTS MUST BE TRUE IN ORDER TO POSSIBLY REDUCE YOUR DEBT.

The child support collected in the month is applied first against correctly paid public assistance. So, if you had an overpayment in a month but you were still eligible for some public assistance, you may not be eligible for any reduction in your debt.

If "current" child support was collected on your behalf by the local social services district, the first \$50, often called the "pass-through" or "bonus," should have been passed through to you and the remainder kept by the social services district to reimburse them for the public assistance that they paid you. It is only the amount beyond this \$50 that may reduce your debt.

If you believe that current child support was collected on your behalf in any month that you were assessed an overpayment, contact your local social services district at _____ [local address and phone number].