

TITLE 219 - DEPARTMENT OF LABOR

CHAPTER 16 - INTERCEPT OF INCOME TAX REFUNDS TO SET-OFF DEBTS
DUE THE NEBRASKA DEPARTMENT OF LABOR

001. This chapter is adopted pursuant to Neb. Rev. Stat. "48-607, 48-655, 48-665, 48-665.01, 77-27,119, and 77-27,197 to 77-27,209.

002. As used in this chapter:

- A. "Debtor" refers to any individual, partnership, corporation, or other entity:
 - 1. Who received unemployment insurance benefits to which he/she was not entitled, or
 - 2. Who owes delinquent unemployment insurance contribution taxes, interest, or penalty.
- B. "Debt" refers to an amount of money due to Labor because of an unemployment insurance benefit overpayment or because of delinquent contribution taxes, interest, or penalty.
- C. "Refund" refers to any Nebraska state income tax refund which Revenue determines to be due an individual, corporation, or business taxpayer.
- D. "Set-off" refers to the application of an income tax refund toward a debt due to Labor.
- E. "Hearing" refers to an administrative proceeding conducted by Labor's Appeal Tribunal.
- F. "Labor" refers to the Nebraska Department of Labor.
- G. "Revenue" refers to the Nebraska Department of Revenue.

003. Any debt of twenty-five dollars or more, which has been finally determined and the appeal period from said final determination having expired, may be matched for possible set-off against income tax refunds as determined by Revenue.

004. Within twenty days of notification from Revenue of an income tax refund available for set-off, Labor will send a written notification to the taxpayer of intent to set-off the tax refund against the debt due to Labor.

- A. The notice will be sent by regular mail to the last-known address of the debtor.
- B. The notice will set forth the basis for the claim against the refund.
- C. In the case of a joint income tax return, the notice will:
 - 1. Advise that each partner to the marriage shall be presumed to have contributed one-half of the earnings upon which the refund is based and, therefore, one-half shall be subject to set-off.
 - 2. Advise that this presumption may be contested through Labor's appeal process, by Labor, the debtor, or the innocent spouse.
 - 3. Advise the name of the taxpayer against whom no debt is claimed and that no action is necessary by the non-owing spouse to receive payment of the non-interceptable amount.
- D. The notice will advise that, within twenty days of mailing of Labor's notification of claim for set-off, the debtor can request a hearing to contest the validity of the claim by giving written notice to Labor. Failure to file said request for a hearing will be deemed a waiver of the opportunity to contest the claim, causing a set-off by default.
- E. The notice will provide the address where a request for hearing must be filed.

005. Administrative appeals involving recoupment of unemployment insurance benefit overpayments pursuant to this regulation shall be conducted in accordance with Title 224, Chapter 1 of the Nebraska Department of Labor's regulations.
006. Administrative appeals involving recoupment of unemployment insurance contribution taxes pursuant to this regulation shall be conducted in accordance with Title 223, Chapter 1 of the Nebraska Department of Labor's regulations.
007. Income tax refunds intercepted will be placed in Labor's "Income Tax Set-Off Account" and held by the Department of Administrative Services pending final determination. Upon final determination, monies so held will then be applied to the debtor's account and/or refunded to the debtor as determined. A receipt will be issued to the debtor showing the amount of income tax refund available to Labor for set-off, the amount of certified debt, the amount applied to the debt, balance of the debt after application of the set-off, and any excess amount refunded to the debtor.