



LOCAL GOVERNMENT DEBT-SETOFF

House Bill 991
2019 Regular Legislative Session



OVERVIEW OF THE LAW



Local Government Debt Collection Setoff Act

(Official Legislation Title)

- This law establishes policy that all claimant local governments and the MS Department of Revenue (DOR) shall cooperate in identifying debtors who owe money to local governments and who qualify for refunds from the DOR. **(Section 2)**

- Key Definitions:
 - **Claimant Local Gov't**: *Municipalities & Counties acting through their nonprofit member organization*
 - **Refund**: *Mississippi income tax refund*
 - **Member Organization**: *MS Association of Supervisors*
 - **Debt**: *Any liquidated sum due and owing to any claimant local government which has accrued through contract, subrogation, tort, justice or municipal court conviction or any other debt regardless of whether there is an outstanding judgment for the sum.* **(Section 3)**

Debt Submission Through Membership Organization

- A local government that decides to submit a debt owed to it for collection under Section 1 through 12 of this act “shall” establish the debt by following the procedures set forth in Section 6 of this act and “shall” submit the debt through a member organization.

(Section 4)

Establishing “Due Process”

- A local government or its member organization on its behalf, “shall” send a written notice to a debtor that the local government intends to submit the debt owed by the debtor for collection by the setoff.
- The notice shall inform the debtor that the debtor has the right to contest the matter by filing a request for hearing with the local government, and shall state the time limits and procedures for requesting a hearing and shall state that the failure to request a hearing within the required time will result in setoff of the debt.
- Debtor who contests a proposed setoff shall file a written request for hearing with the local government within 30 days after the date the local government mails a notice of the proposed action to the debtor. The local government shall hold the hearing. Any civil or criminal issue that has been litigated in a court proceeding cannot be reconsidered.
- The decision from the hearing shall determine whether the debt is owed or not.
- Appeals from the hearing shall be made to the circuit court of the county in which the debtor resides and shall be reviewed on the administrative record made at the hearing before the local government. The standard of review of such decision shall be that established by Mississippi law pertaining to the review of all other administrative decisions made by political subdivisions.

Processing Claims & Notifying DOR

- Claimant local government or its member organization seeking to collect debt shall notify DOR in writing with necessary information about the debtor whose refund is sought.
- Local government or its member organization “shall” notify DOR in writing within 60 days of when a debt of which DOR has previously been noticed has been paid or is no longer owed to it.
- DOR upon receipt of the notification, “shall” determine each year whether the debtor to the claimant local government is entitled to a refund of at least \$50.00 from DOR.
- Upon determination, DOR “shall” set off the debt against the refund to which the debtor would otherwise be entitled and “shall” refund any remaining balance to the debtor.
- DOR “shall” mail the debtor written notice that the setoff has occurred and “shall” credit the net proceeds collected to the claimant local government. After deducting the total collection assistance fee owed to the department and the member organization.

Multiple Claims by Member Organizations on Behalf of Local Gov't

- When there are two or more claims by the member organizations submitting debts on behalf of local government, the claims have priority based on the date each member organization filed the claim with DOR.
- When there are multiple claims among local governments whose debts are submitted by the same member organization, the claims have priority based on the date each local government requested the member organization to submit the debts on its behalf.

(Section 8)

No Cost To The County

- DOR shall collect the “collection assistance fee” as a part of the debt owned by the debtor from the debtor’s Mississippi state income tax return.

(Section 9)

Accounting

- Along with the transmittal of the net proceeds collected on behalf of the claimant local government, DOR “shall” provide the local government with an accounting of the setoffs for which payment is being made.
- The accounting “shall” include the full names of the debtors, Social Security Number or Federal Tax ID Numbers, the gross proceeds collected per setoff, the net proceeds collected per setoff and the collection assistance fees added to the debt collected per setoff.
- Upon receipt by a claimant local government of net proceeds collected on the claimant local government’s behalf by DOR, the claimant local government “shall” credit the debtor’s obligation with the net proceeds collected.

(Section 10)

Confidentiality and Non-disclosure

- DOR, Local government, and member organization may exchange information necessary to accomplish and effectuate the intent of this law.
- Information obtained by a local government or its member organization “shall” retain its confidentiality and “shall” only be used by the local government or member organization in the pursuit of its debt collection duties and practices.
- Any employee or former employee of any local government or its member organization who unlawfully discloses any such information for any other purpose, except as otherwise specifically authorized by law “shall” be subject to the same penalties specified by law for unauthorized disclosure of confidential information by an agency or employee DOR.

HOW WILL MISSISSIPPI
COUNTIES IMPLEMENT?



Debt-Setoff Program Designed for Mississippi Counties

- The Mississippi Association of Supervisors (MAS) has started the process of establishing a program designed for counties.
- MAS has met with MS Dept. of Revenue (DOR) to design a seamless process.
- DOR will promulgate rules and regulations for it to implement and carry out its duties.
- MAS will assist counties with promulgating rules and regulations necessary for local administration of the program.

MS Department of Revenue

(Feedback from Meeting with DOR)

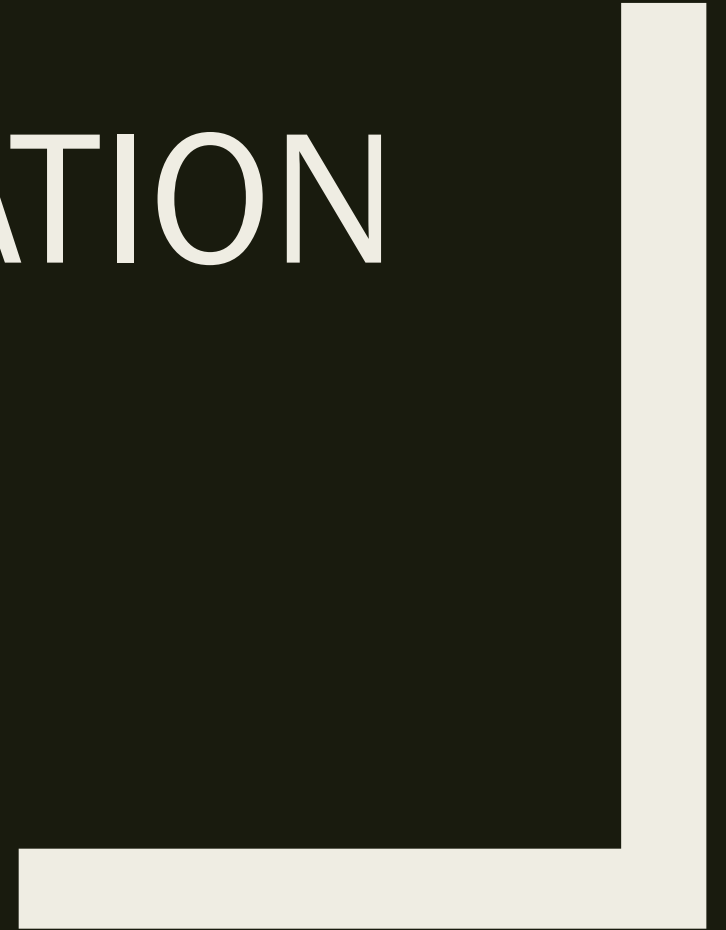
- The MS Department of Revenue (DOR) is currently working on implementing this program in their system.

- The only delinquent debts that will take priority before the local governments can receive their owed debts will be (1) debts owed to DOR; (2) child support; (3) the Internal Revenue Service, then local governments will receive their debts owed on a first come first serve basis.

Initial Testing

- DOR recommends that MAS begin testing the program around October, and to actually begin sending them information on the debtors around December and January.

SAMPLE NOTIFICATION LETTER



Dear Joint Taxpayer [OR] Taxpayer:

According to our records, JOHN DOE or JANE DOE owes the County of Choctaw a debt in the amount of \$517.98 for the following: Garbage Collection Fees. As this debt is past due, you are hereby notified that in accordance with the Local Government Debt Collection Setoff Act (*House Bill 991 from the 2019 Regular Legislative Session*), the debt will be submitted to the Mississippi Department of Revenue to be collected against your Mississippi State Income Tax Refund. A collection assistance fee of 25% of the debt owed will also be deducted from your tax refund for processing services. To avoid the collection of the debt and collection assistance fee contact John Sample with the County of Choctaw at 601-676-7777 to pay your debt balance.

If your state income tax return is not enough to offset the full amount of debt owed, your state income tax return will continue to be collected against until the debt is paid in full. Any Mississippi State Income Tax Refund in excess of this claimed debt will be issued by the State of Mississippi in due course.

To appeal the collection of this debt you have 30 days from the postmarked dated of this letter to contest this action. Your appeal must be filed in writing to the County of Choctaw and delivered for mailing with postage prepaid and properly addressed as required in this notice. Failure to apply in writing for an appeal hearing with the County of Choctaw will mean you have waived your opportunity to contest the collection of this debt and any associated fees. The decision from the hearing shall determine whether the debt is owed or not. The County of Choctaw shall hold the hearing. **NOTE:** Any civil or criminal issue that has been litigated in a court proceeding cannot be reconsidered.

The appeals hearing request must contain "ALL" of the following information: (1) Full Name; (2) Address of Primary Residency; (3) Valid Phone Number; (4) Social Security Number; (5) The type of debt being disputed; and (6) a detailed statement of all the reasons you disagree or dispute the debt. Your original written appeals hearing request must be mail to: John Sample, 112 Quinn Street, Ackerman, MS 39735.

If you filed a joint return. Either party may appeal this collection and request an appeal hearing as outlined in the previous paragraph.

If you have any questions regarding this matter, please call 1-800-776-9863.

Sincerely,

Mississippi LGDC Services.

QUESTIONS?

