

# Treasury Offset Program (TOP)



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The **Treasury Offset Program (TOP)** is a debt collection program administered by Financial Management Services (FMS), a bureau of the U.S. Department of the Treasury. This program allows state agencies to submit past-due, legally enforceable state income tax obligations to FMS for offset of the debtor's individual federal income tax refund.

The Oregon Department of Revenue sends a Notice of Intent to Offset by certified mail to the last known address of the taxpayer explaining that the debt will be forwarded to TOP if not paid in full within 60 days.

Once TOP receives certification from the state of the past-due tax debt, the federal income tax refund may be taken to pay down the state debt. This process is referred to as **offset**. The IRS sends any remaining federal refund amount to the taxpayer. FMS mails a notification to the taxpayer explaining why the federal refund was reduced. The letter refers the taxpayer to the Department of Revenue and explains it could take several weeks before the federal refund reaches the state agency. The IRS sends any remaining federal refund amount to the taxpayer.

To avoid the offset, you must take one of the actions described below within 60 days from the date of the certified Notice of Intent to Offset.

## Pay the debt in full

You must pay the full amount listed on the Notice of Intent to Offset letter. Use the coupon included in the letter when you send in your payment. You may also pay with a VISA, or MasterCard, or Discover. To pay with a credit card or get more information, call 503-378-4988 (Salem) or 1-800-356-4222 (toll free within Oregon). Be sure to tell the representative you want your payment applied to the debts included on the Notice of Intent to Offset letter.

## Request a Review

If you believe that all or part of the debt is not past due or not legally enforceable, you must send evidence to support your position. Send your evidence within 60 days of the date of the Notice of Intent to Offset to:

Oregon Department of Revenue  
PO Box 14725  
Salem OR 97309-5018

## Bankruptcy

If you have filed for bankruptcy, please contact us immediately. Provide us with your bankruptcy case number and the bankruptcy court. Although you are not subject to offset of your federal income tax refund while the bankruptcy "automatic stay" is in effect, you still are obligated to file tax returns.

## Native American

If you are an enrolled member of an Indian tribe and believe your income is not taxable, you must send a letter explaining why. Send your letter within 60 days of the date of the Notice of Intent to Offset to:

Oregon Department of Revenue  
PO Box 14725  
Salem OR 97309-5018

### Q. What is an "offset"?

A. An offset is when the federal refund you would have received is used to pay all or a portion of a state income tax debt. If the full amount owed is not collected in one year, future offsets may be done to satisfy your tax debt.

### Q. Can offset be avoided?

A. Yes. You must pay the balance of all tax liabilities listed in the notice, including ongoing interest, within the 60-day time frame provided in the Notice of Intent to Offset letter. If the debt is not resolved within 60 days, the department will send our request to FMS to offset any federal income tax refund you may be entitled to receive.

### Q. Will the department charge me any fees if my federal refund is offset to my state income tax debt?

A. Not at this time.

### Q. I paid the Department of Revenue in full, but my federal refund was still offset. What should I do?

A. At the time your debt was submitted to FMS, the account was not paid in full. The Department of Revenue cannot stop an offset once you are notified by FMS. The department will refund any overpayment to you once it has been posted to your account. If your federal refund was from a jointly filed return, your overpayment will be issued in both names.

**Q. I have a payment plan in effect with the Department of Revenue. Will you still offset my federal refund?**

**A.** Yes. The department will continue to pursue federal offset activity even though you are meeting your payment arrangements. We also will offset any Oregon state income tax refunds you may receive until the amount is paid in full.

**Q. Will you notify FMS of any changes to my balance for payments I make to the Department of Revenue?**

**A.** Yes. The department will send updated account information to FMS each week.

**Q. How soon will the federal refund that was offset show on my account?**

**A.** Allow a minimum of two weeks for the department to receive the payment from FMS.

**Q. I have been notified by FMS that my federal tax refund will be offset so I will not receive my full federal refund. I believe that I have paid off the debt and need to resolve this issue. Whom do I contact?**

**A.** You should contact the Department of Revenue at the address or phone number provided to you on the notice. A department representative can confirm your balance information. The department will refund any overpayment to you once it has been posted to your account. If your federal refund was from a jointly filed return, your overpayment will be issued in both names.

**Q. The Department of Revenue has served a garnishment for collection action, but my federal refund has already been offset and will pay the debt in full. What should I do?**

**A.** Send a copy of the FMS letter informing you of the federal refund offset to the Department of Revenue employee who has served the garnishment immediately. Your account will be reviewed and any necessary actions to adjust collection activity will be taken upon receipt of proof of the federal offset.

**Q. Can you send me another copy of the Notice of Intent to Offset letter that originally was sent to me by certified mail?**

**A.** Yes. You can write to the Department of Revenue for a copy, or you can call 503-378-4988 (Salem) or 1-800-356-4222 (toll free within Oregon).

**Q. Can I pay my debt to avoid offset?**

**A.** Yes. Use the coupon included in the Notice of Intent to Offset to send in your payment within 60 days. You also may pay with a VISA, or MasterCard, or Discover. To pay with a credit card or get more information, call 503-378-4988 (Salem) or 1-800-356-4222 (toll free within

Oregon). Be sure to tell the representative you want your payment applied to the debts included on the Notice of Intent to Offset letter.

**Q. Why did the letter come in only my name and not my spouse's name? We filed jointly.**

**A.** The person who was listed first on the return is the only person who will receive a notice.

**Q. My spouse and I filed a joint tax return and our refund was offset for a debt that my spouse owes. How can I get my portion of the refund back?**

**A.** You must complete IRS Form 8379 and send it to the IRS to get your share of the refund. You may download the form at <http://www.irs.gov/pub/irs-fill/f8379.pdf>, call the IRS at 1-800-829-3676, or visit a local IRS office. If you have questions about the form or need help completing it, call the IRS at 1-800-829-1040. The completed Form 8379 should be mailed to the IRS center where you sent your original tax return. The IRS will notify the Department of Revenue when they apportion your refund, and we will adjust your account.

If you still have an amount that will be offset, include a copy of IRS Form 8379 when you file your federal tax return.

**Q. Are Native Americans required to pay Oregon income tax?**

**A.** An enrolled member of a federally recognized tribe may subtract any income earned while living and working in Indian country. Income such as interest income also can be subtracted if you receive it while living in Indian country. "Indian country" means those areas set aside for the residence of tribal Indians. It includes reservation land and other land held in trust by the United States for a tribe.

**Q. Why can the U.S. government collect money to pay debts owed to a state?**

**A.** Under the federal Debt Collection Improvement Act (DCIA), an administrative offset such as the Treasury Offset Program (TOP) may be used to collect debts, including funds or property owed by a person to a state (including any past-due support being enforced by the state).

The Secretary of the Treasury has the discretion to collect debts owed to states by offset; it is not mandatory. An reciprocal agreement must be made with the state and the appropriate state official must request the offset. Oregon has signed an agreement with the Treasury Department to participate in TOP.