



AIC TRECS Debt Setoff Clearinghouse Overview of Program Requirements

To: County Treasurers
From: David Bottorff, AIC Executive Director
Date: September 24, 2017 (revised January 23, 2018)
Subject: TRECS AIC Local Government Debt Setoff Clearinghouse Program
CC: Board of County Commissioners

The Association of Indiana Counties was successful in having enacted legislation in 2017 that enables local government participation in the state's personal income tax debt setoff program. As of January 1, 2018, IC 6-8.1-9.5-1 of the Indiana Code defines units of local government that may participate in the program, including the following:

- *A county*
- *A city*
- *A town*
- *A township*
- *A political subdivision, commission, or agency created under Indiana law*
- *A school corporation*

The debt setoff program permits units of local government to submit any outstanding certified delinquent debt (totaling \$25 or more) through a local government clearinghouse to the Indiana Department of Revenue, to attempt to match these debts against individual income tax refunds.

The clearinghouse is authorized to charge \$20 to the amount of delinquent debt submitted by participating local governments and will be responsible for adding the \$20. **Each delinquent debt that is successfully matched incurs the \$20 collection assistance fee. This applies to individual debts of \$25 or more, and to those combined debts to meet the \$25 minimum. No clearinghouse charges accrue unless a successful tax refund setoff is made. Again, the clearinghouse will add the \$20 to the amount of debt submitted by the participating local agency.** The Indiana Department of Revenue will charge the debtor an additional 15% of the amount of setoff.

An individual local agency may combine debts under a single debtor in order to meet the \$25 minimum. The local agency must furnish the full name and last known address of each debtor.

The AIC has contracted with the National Association of Counties Financial Services Center (NACo FSC) to perform the back-office functions of the debt setoff program. NACo FSC processes and submits the consolidated debts to the Indiana Department of Revenue, and is establishing an Interactive Voice Response system to receive telephone calls from taxpayers who have had their refunds withheld, in whole or in part. The AIC, working with NACo FSC, will also submit successful match information back to the participating local agencies. The AIC has put on their website information and documents for participation.

Successful match funds are disbursed through TrustINDiana. Each local agency must have an account with TrustINDiana to receive the funds. Details regarding completion and transmission of this form and opening new accounts can be found at www.trustindiana.in.gov. No additional charge will accrue for this service – TrustINDiana considers this an important service offering to its local clients.

In order to participate in the program, each unit of local government should become familiar with Indiana Code IC 6-8.1-9.5 and must attest to comply with the requirements therein. Certain appeal procedures,

including notification to the debtor and debtor's right to a hearing must be followed. Prior to submission of the debt to the clearinghouse, the unit of local government must send written notice to a debtor that the agency intends to submit the debt for collection by setoff, and that a collection assistance fee of \$20 will be added to the debt if it is submitted for setoff and that IDoR will charge an additional 15% of the setoff to the debtor. The notice must explain the debt and that the unit of local government intends to apply the debtor's refund against the debt. The notice must inform the debtor that the debtor has the right to contest the matter by filing a request for a hearing with the unit of local government within 30 days, and must state that failure to request a hearing within the required time will result in the debt being submitted for setoff. Please see the available sample notification letters on the AIC website.

A debtor who decides to contest a proposed setoff must file a written request for a hearing with the unit of local government's fiscal officer within 30 days after the date the local agency mails a notice of the proposed action to the debtor. The fiscal officer of the unit of local government must hold the hearing. **Please note that no debt can be submitted to the clearinghouse until the entire notification and appeals process is completed for that debt pursuant to IC 6-8.1-9.5-3.7.**

After the clearinghouse is notified by IDoR that a refund is due a debtor, the clearinghouse will work with the claimant agency to inform the debtor that the refund will be intercepted pursuant to IC 6-8.1-9.5-5. The debtor has 30 days to contest the intercept. Following the 30 days contest period, the clearinghouse will confirm the debt amount with IDoR.

AIC TRECs Debt Setoff Clearinghouse Program and Match Guidelines highlights include:

- Counties, cities, towns, townships, political subdivisions, commissions, or agencies created under Indiana law may participate in the AIC Tax Refund Exchange and Compliance system local government debt setoff clearinghouse program
- The unit of local government may submit debts of at least \$25 each individually by debtor name and last known address to the clearinghouse. Smaller debts less than \$25 can be combined to meet the \$25 threshold
- Debts must be submitted in the format and media required by AIC TRECs; please see the *File Layout* requirements
- Per state law, priorities for refunds will be determined when the debt is initially submitted to the program. Please note that state agencies have priority over local agencies for collection by setoff
- Existing submitted debts may be adjusted to reflect subsequent debtor payments but will retain the original priority order, but not a later submitted new debt, even if for the same debtor
- Successful matches against a debtor refund will be credited to the first local agency submitting the debt
- Should the individual debtor's refund exceed the first local agency's total debt and another local agency has submitted other debt(s) owed by the same debtor, the debtor's remaining refund will be reduced by the amount of the second local agency's debt. This procedure shall continue through the priority of debtors should there be sufficient refund due the debtor
- Each delinquent debt successfully intercepted will incur the \$20 collection assistance fee and the 15% IDoR setoff charge

For local agencies wishing to participate, please see the *Memorandum of Understanding with the AIC Tax Refund Exchange and Compliance system*, for your execution. Please also complete the *Registration/Participation Form* that requires the designation of a TRECs' local government contact (see AIC website) Please return an original executed copy of the Agreement and the registration/participation form to jclements@indianacounties.org. Please see the *Talking Points for Board Consideration* that may

be used for your governing board to authorize your county's (or other unit of local government's) participation in the Program.

Please see the following documents:

- Memorandum of Understanding and Agreement, AIC's Tax-Refund Exchange and Compliance system
- File Layout
- Registration/Participation Form
- Sample Debtor Notification Letters
- Talking Points for Adoption by Board of County Commissioners or governing body
- Frequently Asked Questions and Answers

The Association of Indiana Counties is pleased to provide this service to their local government partners. We believe it will prove useful as a method of debt collection. If you have any questions, please contact:

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