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Comptroller
State of Illinois

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Springfield, Illinois 62706
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ACCOUNTING BULLETIN NO. 55

February 11, 1987

TO: Agency Heads and Chief Fiscal
Officers of All State Agencies

SUBJECT: Claims Submitted for Offset--Procedural Changes

A recent court decision has mandated certain changes in the Comptroller's Offset System which is authorized by Section 10.05 of the State Comptroller Act (Ill. Rev. Stat. 1985, ch. 15, par. 210.05). While certain aspects of the case are presently being appealed, several immediate changes are necessary. You will be advised of any additional changes resulting from the outcome of the appeal process.

Effective immediately, all claims submitted for offset must be preceded by a meaningful notice and opportunity to be heard. This must include, at a minimum, a clear and detailed notice to the person whose State warrant might be intercepted, specifying the nature and amount of the claim and possible defenses to the offset, such as discharge in bankruptcy, mistaken identity, prior payment of the debt, inaccuracy in the amount of the claim, or other relevant defenses. In addition, where requested, an agency must allow the person subject to offset to present relevant documentary evidence and examine the materials upon which the agency relied in determining the claim. Upon the completion of this review, the agency must render a written decision. The agency's decision must be reviewable, e.g., in the Circuit Court or the Court of Claims.

This process must be completed prior to offset claims being filed with the Comptroller.

Existing Rules of the Comptroller require agencies submitting claims or offsets to provide:

1. A description of the type of notification given to the person against whom the claim exists and the type of opportunity to be heard afforded such person;
2. A statement as to the outcome of any hearings or other proceedings held to establish the debt, or a statement that no hearing was requested; and

3. The date of final determination of the debt.

(74 Ill. Admin. Code 285.1102)

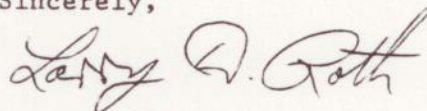
Therefore, the documentation of the additional requirements specified herein can be set forth within the existing Involuntary Withholding Request (Form C-33), Reason for Debt box.

However, the rule specified above did not specifically apply to claims submitted to the Comptroller prior to July 1, 1986. As a result, the Comptroller's offset file of claims submitted prior to July 1, 1986, may be deficient as a matter of law. Each agency will be notified of offset claims to be deleted by the Comptroller. Agencies may review these claims and resubmit them in accordance with the revised requirements or discontinue collection through offset, at the agencies' option.

Each agency should review its file of claims submitted after July 1, 1986, to ensure that the "notification and opportunity to be heard" specified on the Involuntary Withholding Request complies with the standards set forth in this bulletin.

Questions concerning agency procedures for establishing debts collectible through offset may be referred to John Stevens, Legal Counsel, at (217) 782-6000. Questions concerning the submission of claims for offset should be directed to Irene Russo, Involuntary Withholding Unit, at (217) 782-7525.

Sincerely,



Larry D. Roth
Director, State Accounting