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ACCOUNTING BULLETIN NO. 51

June 11, 1986

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

SUBJECT: Changes in "Claim Eligible to be Offset" Rules
74 Illinois Administrative Code 285

The Comptroller's Office has amended the administrative rules governing offsets initiated pursuant to Section 10.05 of the State Comptroller Act (Ill. Rev. Stat. 1985, ch. 15, par. 210.05). Effective July 1, 1986 all State agencies submitting claims to the Comptroller for offset must comply with the revised administrative rules (copy attached) and include the additional information on the Involuntary Withholding Request (Form C-33) as described herein.

The most significant change to the offset rules requires State agencies to provide the Comptroller the information demonstrating that the agency has provided the debtor with due process of law prior to initiating the offset.

"Due process of law" is a Constitutional requirement that persons from whom payments will be withheld under the 10.05 offset system be given prior notice of the action and an opportunity to be heard, i.e., to present information which would disprove the agency's claim.

In order to ensure that State agencies' debt establishment procedures comport with due process, all agencies must provide the following information:

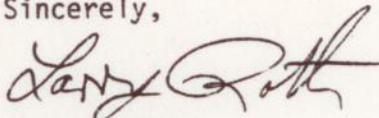
1. A description of the type of notification given to the person against whom the claim exists and the type of opportunity to be heard afforded such person;
2. A statement as to the outcome of any hearings or other proceedings held to establish the debt, or a statement that no hearing was requested;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

Each claim for offset submitted after the effective date of the amended rules must contain this additional information in the Reason for Debt box on the

Involuntary Withholding Request (Form C-33), or it will be returned to the agency.

If there are questions regarding the procedures outlined in this bulletin, please contact Irene Russo of the Comptroller's Office at 782-7525.

Sincerely,



Larry Roth
Director, State Accounting

TITLE 74: PUBLIC FINANCE
CHAPTER II: COMPTROLLER

PART 285
CLAIM ELIGIBLE TO BE OFFSET

Section

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AUTHORITY: Implementing "AN ACT in relation to the powers and duties of the State Comptroller, amending certain Acts named herein" (Public Act 84-803, effective September 21, 1985), and "AN ACT to authorize the withholding of State income tax refunds for the payment of past due support and to amend certain Acts therein named" (Public Act 84-825, effective October 1, 1985), and authorized by Section 21 of the State Comptroller Act (Ill. Rev. Stat. 1985, ch. 15, par. 221).

SOURCE: Adopted at 5 Ill. Reg. 423, effective December 30, 1980; codified at 5 Ill. Reg. 10598; amended at 8 Ill. Reg. 2451, effective February 9, 1984; amended at _____, Ill. Reg. _____, effective _____.

Section 285.1100 Foreword

For the purpose of establishing procedures for making offsets of claims eligible to be offset from warrants to be issued to persons entitled to them, in accordance with Section 10.05 of the State Comptroller Act (Ill. Rev. Stat. 1985, ch. 15, par. 210.05), this Part is promulgated pursuant to the authority contained in Section 21 of the State Comptroller Act (Ill. Rev. Stat. 1985, ch. 15, par. 221).

(Source: Amended at _____ Ill. Reg. _____, effective _____.)

Section 285.1101 Definitions

As used in this Part unless the context indicates otherwise, the following terms shall have the meanings specified:

"Account or claim eligible to be offset", means an amount owed to the State or to any of its agencies or instrumentalities or other amount authorized by statute to be collected through offset which represents an outstanding liability of a person to a fund in the State Treasury or other fund held by the State Treasurer, an outstanding liability of a person to a fund not held by the State Treasurer, where such amount exceeds \$50, or past due child support owed by a person as a result of support action being taken by the Department of Public Aid under Article X of the Illinois Public Aid Code (Ill. Rev. Stat. 1985, ch. 23, par. 10-1 et seq.), whether or not such support is owed to the State.

"Act", means the "State Comptroller Act", approved September 7, 1972, as amended (Ill. Rev. Stat. 1985, ch. 15, par. 201 et seq.).

"Comptroller", means the Comptroller of the State of Illinois or any employee of the Office of the Comptroller authorized by the Comptroller, directly or indirectly by one or more redelegations of authority, to perform the functions and duties required by the Act or this Part.

"Net amount of the warrant", means that amount of money, which a State agency has authorized the Comptroller to order the payment of, remaining after all involuntary and voluntary deductions are made and deferred compensation is deducted.

"Offset", means a contrary claim or demand by which a given person's claim to a warrant of the State Comptroller may be lessened or cancelled.

"Person", means any individual, corporation, company, association, firm, partnership, society, joint stock company, unit of local government or any other organization.

"Person subject to the offset", means the payee of any warrant from which the Comptroller has offset an account or claim eligible to be offset.

"Received a voucher", means that point in time when the Comptroller has physically received the voucher in-house and has date-stamped the voucher:

"Section 10.05 of the Act", means Section 10.05 of the State Comptroller Act (Ill. Rev. Stat. 1985, ch. 15, par. 210.05).

(Source: Amended at _____ Ill. Reg. _____, effective _____.)

Section 285.1102 Request for Processing a Claim under Section 10.05 of the Act

- a) The Comptroller will not process a claim under Section 10.05 of the Act until he has received notification from the State agency that the debt has been established through notice and opportunity to be heard.
- b) For purposes of Section 10.05 of the Act and this Part promulgated pursuant thereto, "notification" of an account or claim eligible to be offset shall be deemed to occur when the State agency in favor of which the account or claim has arisen has submitted to the Comptroller, on a Form C-33, a written statement thereof, which statement must contain the following information:
 - 1) the name, address and Social Security Number or Federal Employer's Identification Number of the person against whom the claim exists;
 - 2) the amount of the claim then due and payable to the state;
 - 3) the reason why there is an amount due to the State (i.e., income tax liability, overpayment, etc.);
 - 4) the time period to which the claim is attributable;
 - 5) the fund to which the debt is owed;
 - 6) 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;
 - 7) 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;
 - 8) the date of final determination of the debt; and
 - 9) any other information which is needed to describe the claim eligible to be offset.
- c) Such statement shall be executed by the person or persons who are authorized to issue, certify and approve vouchers for the agency under Section 10 and 11 of "AN ACT in relation to State Finance", (Ill. Rev. Stat. 1985, ch. 127, pars. 146 and 147). The above specified vouchering authority may delegate to a responsible person or persons the authority to execute the statement of the claim required by this Section. This delegation of authority shall be made on forms provided by the Comptroller and shall contain a signature sample of the person(s) to whom the delegation is made.

(Source: Amended at _____ Ill. Reg. _____, effective _____.)

Section 285.1109 Accounting for Recovery

Whenever the Comptroller deducts an amount from a warrant under Section 10.05 of the State Comptroller Act, he shall charge the vouchering agency for the full amount of the voucher submitted. Recovery of the account or claim eligible to be offset will be handled in the following manner: if the account or claim eligible to be offset arose from an expenditure by a State agency and the appropriation to which the expenditure was charged has not lapsed, the amount recovered shall be credited to such appropriation as well as the fund from which the expenditure was made and shall be available for expenditure. If the appropriation to which the expenditure was charged has lapsed, or if the expenditure was not charged to an appropriation, the amount recovered shall be credited to the fund from which the expenditure was made and shall be available for expenditure unless such credit or availability is otherwise prohibited by law. If the account or claim eligible to be offset arose from an occurrence other than expenditure, the recovery shall be credited to the General Revenue Fund unless otherwise provided by law. Child support claims which are recovered will be turned over to the Department of Public Aid for distribution to those persons entitled to such claims.

(Source: Amended at _____ Ill. Reg. _____, effective _____.)

Section 285.1104 Processing a Claim Under Section 10.05

The following provisions shall govern the processing of a claim under Section 10.05 of the Act:

- a) Before making an offset, the Comptroller shall review the information provided by the agency notifying him of a claim and shall ascertain therefrom the amount due and payable.
- b) The Comptroller shall make all offsets against the net amount of the warrant.
- c) The Comptroller shall charge the agency which submits a voucher, against which voucher an offset claim is applied, for the full amount of the voucher submitted. The Comptroller shall draw a warrant on the treasury or on other funds held by the State Treasurer in the amount of the claim eligible to be offset and deposit that warrant into the State Offset Claims Fund. If after thirty days have elapsed from the date the Comptroller gives notice of the offset as prescribed in Section 285.1106(a), no protest is made by the person subject to the offset, the Comptroller shall issue a warrant on the State offset Claims Fund for the amount of that deposit to the agency entitled thereto. If a protest which conforms to the requirements of Section 285.1106(b) is made, the Comptroller shall not issue such warrant to the State agency on the State Offset Claims Fund until he ascertains the amount due and payable as provided in Section 285.1106(c).
- d) If the Comptroller receives a proper request for a claim after he has drawn a warrant(s), he shall, where feasible, reprocess the warrant in order that he may apply the offset against it as provided for in this Section.
- e) If the amount of the claim eligible to be offset is less than the amount to which the person is entitled, the Comptroller shall draw a warrant for the balance of the amount of the voucher against which the Comptroller has made the offset and shall issue that warrant to the person subject to the offset.

(Source: Amended at ___ Ill. Reg. ____, effective _____.)

