

UTRECS Debt Setoff FAQs and Timeline

What is the UTRECS debt setoff program?

The Utah Association of Counties' (UAC) TRECS program allows political subdivisions to submit receivables of 90 days or more in arrears through the TRECS clearinghouse to the Utah Division of Finance ("the Division") administrative offset program. The Division coordinates with the Utah State Tax Commission (STC) to run a match file of the debtor's social security number against all taxpayers to determine if a personal income tax refund or other state payments are due.

The Division notifies the political subdivision through the local agency ("UTRECS Clearinghouse") if a match is found, and the local agency verifies the delinquent account balance to the Division through file refresh with the clearinghouse, of the amount to be offset. The debt includes any interest, penalties, and collection costs. The Division offsets the refund for any unpaid debts and its collections fees.

What authorizes political subdivisions to participate in the state's personal tax debt setoff program?

Utah Code 63A-3-301 et seq. authorizes the Division to establish an administrative offset program to set off a personal income tax refund or any other state payment against any eligible delinquent debt owed to any agency, authority of the state, or any political subdivision. UC 63A-3-301 et seq. authorizes a local nonprofit entity organized by participating political subdivisions (UAC) to act on their behalf to submit accounts receivables to the Division. Utah Administrative Code Rule R21 specifies the Division's administrative offset process.

Participating political subdivisions enter into an agreement with the local agency for an agreed-upon fee assessed to the debtor to notice, prepare and submit delinquent accounts receivables to the Division for administrative offset. UTRECS facilitates debt compilation and formatting to the Division standards. The political subdivision also enters into an agreement with the Division and must receive and respond to requested administrative hearings under adjudicative procedures requirements.

A political subdivision is defined as a county, city, town, school district, community reinvestment agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement, or other governmental subdivision or public corporation.

What debts are eligible for collection through U TRECS?

State law defines accounts receivable as any amount due as a result of a judgment, citation, tax or administrative order, or for which materials or services have been provided but for which payment has not been received. The accounts receivable must be at least 90 days in arrears.

How does a political subdivision sign up to participate in TRECS?

Each political subdivision executes a memorandum of understanding (MOU) with UAC. Individual departments within a local government may be considered as separate political subdivision and may execute separate MOUs. (Approval by the local government's governing body may be needed if required by the jurisdiction for contract execution.) The clearinghouse will host web-based orientation and training for all interested agencies.

In addition to the Clearinghouse registration process, the participating political subdivision must also enter into a separate memorandum of agreement with the Division, which will be included in the UTRECS Sign-Up Package and sent to the Division by the clearinghouse once completed by the participating political subdivision.

Is there a cost for participation in the TRECS debt setoff clearinghouse?

There is no cost for the political subdivision to participate. State statute authorizes UAC to impose a collection fee of \$25 per successful debt payment transaction post clearinghouse submission, which is added to the debt submitted by the participating entity and assessed against the debtor. If the debt is fully resolved at the participating political subdivision level, the participating political subdivision will collect the \$25 collection fee in addition to the debt amount, with the collection fee being invoiced monthly by the UTRECS clearinghouse. If the debt is offset against a personal tax return at the Division, then the \$25 collection fee is withheld by the clearinghouse post-intercept and not returned to the participating entity for monthly invoicing.

The Division also withholds \$15 from each successful offset for its administrative expenses—these costs are also assessed against the debtor and withheld by the Division post-intercept and not returned to the political subdivision for invoicing. The Division’s \$15 fee is not assessed if repayment is resolved at the local level prior to intercept at the state-level.

Please note that the participating political subdivision will receive a report reflecting the \$25 clearinghouse fee and the \$15 Division fee post-intercept in their final payment file for their knowledge.

Is a participating political subdivision required to notify the debtor in writing about its intent to submit debts for offset?

Prior to the beginning of tax season, the clearinghouse on behalf of the participating political subdivision will send a courtesy letter to the address submitted by the participating entity notifying the debtor of its intent. Upon intercept of a personal income tax refund or other state payment, the clearinghouse on behalf of the participating entity will send a notice by mail to the debtor at the debtor’s last-known address within two business days of the date of the notice, stating the date and amount of the receivable and a demand for immediate payment. The notice must include the debtor’s right to file a written response within 21 days of receipt, to have a hearing, to be represented at the hearing, and to appeal any decision of the hearing examiner. The notice must provide the participating political subdivision’s address to request the hearing.

The notice must state that if the debtor fails to respond to the notice within the 21 days or if a hearing is held and the hearing officer decides against the debtor, the state may obtain an order and execute upon the debtor’s income tax overpayments or refunds in the form of a lien. The notice must also be sent to any individuals who are joint filers with the debtor if the claimant agency is aware of the joint filer.

The Division will also send an after-action notification letter to the debtor once an offset has occurred, which reiterates the right to file a written response within 21 days of receipt, to have a hearing, to be represented at the hearing, and to appeal any decision of the hearing examiner. This notice will also have the contact information for the submitting participating political subdivision, should the debtor wish to reach out to the claimant entity directly.

The debtor will receive a maximum of 3 letters about the process (the pre-intercept notification letter and the post-intercept notification letter sent by the Clearinghouse, as well as the Division’s after-action notification letter), but the participating jurisdiction is not responsible for mailing any of these letters. However, the participating entity is responsible for any hearings and adjudicative proceedings should these arise. From current experience, we have found there to be very few contestations.

What process must a political subdivision follow to submit debt records to the clearinghouse?

Participating political subdivisions will submit eligible debts in the required file format (provided on UAC’s website) to the clearinghouse through a secure, web-based file transfer process. Multiple debts owed by a single debtor should be submitted separately with individual debt unique keys (DUK) and should not be combined.

How often should a participating political subdivision send data files (debtors/debts) to the UTRECS debt setoff clearinghouse?

Participating entities are encouraged to refresh their files at least weekly to add new debts or adjust, as needed, dollar amounts on existing debts submitted previously.

If the participating entity no longer wishes to pursue the debt through setoff, the entity must zero out the debt amount in the debt file via a file refresh in order to release an unmatched debt or release a match pending offset via the state's web portal. Individual debt records cannot be erased, only adjusted up or down, or zeroed out. Please note that when a debt is zeroed out, the clearinghouse will assume the debt has been paid in full and will automatically charge the clearinghouse fee on that debt. If the debt is zeroed out but has not paid in full, please place an "X" in the debt file column titled "Clearinghouse Fee Exempt" to remove the Clearinghouse fee from the debt.

If the participating entity would like to temporarily "freeze" their entire debt file or no longer wishes to pursue any of the debts in their debt file, the participating entity can click the "Freeze" check-mark button when uploading the file and the entire file will be paused from any further refund or state payments matching. Existing matches in the system prior to clicking the "Freeze" point will continue through the 21 day offset process, unless the participating entity zeros out the debt amount in their file refresh.

UTRECS will send to the Division a new file once daily to ensure that debt records are as current as possible.

Does a political subdivision need a debtor's social security number to submit debtors to the TRECS clearinghouse?

UTRECS provides a SSN look-up service for debtor identification. However, if the participating political subdivision collects and stores SSNs, then the clearinghouse can use this information to validate the debtor's identity.

Can a participating political subdivision submit debts for business owners?

No, unless the business owner files a personal income tax return.

How are multiple claims prioritized against the same taxpayer refund?

State law sets priorities for multiple claims to the same refund, with unpaid state income taxes, victim's restitution, child support, outstanding warrant bails, and judgments (including local debt) set forth in priority order. For local debt, clearinghouse priorities are set at first debt files received, first paid through setoff.

How will a participating political subdivision receive its offset funds and be able to reconcile the debts recovered through setoff?

Once an intercept has occurred, the clearinghouse will certify the final debt amounts to the Division on behalf of the participating entity. The Division will offset the refund up to the amount needed to repay the debts and associated fees, then disperse offset funds to the participating political subdivision within 3 business days. After the 21-day contest window has lapsed or if a hearing is held and the hearing officer decides against the debtor, the participating political subdivision can reconcile final payment of the debt.

The clearinghouse will generate an automated excel file for easy upload into the participating entity's existing software system for funds reconciliation.

How are debtors notified that their tax refund has been offset?

The Division will send the debtor an after-action letter with the amount that was setoff for indebtedness and will include a clearinghouse-provided toll-free number for the debtor to contact the participating entity receiving the offset. Thereafter, a participating political subdivision will receive information from the clearinghouse on successful setoffs.

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