



When They Keep Your State Tax Refund

What is revenue recapture?

The Minnesota Department of Revenue can keep your Minnesota income or property tax refund, or lottery prize, if you owe money to a state or county agency. The tax department sends your refund to the agency that you owe. This is called “revenue recapture.” It is used to collect:

- overpayments of public assistance
- medical bills from county or city hospitals
- school loans
- child support
- debts to public housing authorities, and
- fines or restitution in criminal cases



Are there times that they can't take my refund?

Even if you owe the money, they can't take your refund if:

- Your debt is for medical bills, **AND** your income **at the time you got the medical care** was below a certain level. This level changes each year. Call the Department of Revenue at (651) 556-3003 to get the income limits for the year you got the medical care. The income limit is based on the number of dependents you had in that year.
- Your debt is for an overpayment of public assistance, like MFIP or childcare **AND** you still get either the same kind of public assistance or SNAP (food stamps). But they **can** take your refund while you are still on assistance if you were overpaid because you lied or broke the rules of the assistance program on purpose.
- You have a payment plan with the agency, you are keeping up with the payments, **and** the plan says they won't use recapture.
- Your debt is more than 6 years old. There are some exceptions to this rule. For example, they can recapture for student loan debts even after 6 years.

In all of the above cases, they can't take your refund, but you must tell them so in writing.

What notice should I get if they want to take my refund?

First, a state or county agency asks the Department of Revenue to take your refund. Then within 5 days, the agency that thinks you owe them money must send you a notice of your rights.

The notice must tell you:

- what the debt is for, the amount, and when it happened

- that they want to use revenue recapture
- that you can dispute the debt and if you are subject to recapture
 - that you can argue (contest) the revenue recapture, and
 - how you can argue the recapture

How do I argue the recapture?

Write to the agency that says you owe them money, **not** to the Department of Revenue. Put at the top of the letter that it is a “Revenue Recapture Appeal.” Briefly explain why they shouldn’t keep your refund.



The reasons can be that:

- you don’t owe the money or
- even if you owe the money, you are protected from recapture – see above.

Keep a copy of the letter. The agency must get your appeal within 45 days of the date that their notice was mailed to you. The agency should set a hearing within 30 days. You don’t need a lawyer, but you may want to call one for advice.

You don’t have a right to a hearing if the debt comes from a court judgment or order.

If you didn’t get a notice of your rights from the agency, you can still contest the recapture:

- Write to the agency to ask for an appeal.
- Your 45-day time to contest does not start until you get written notice that they want to use revenue recapture.
- If the agency says it sent you a notice, but you never got it, then you get a hearing on 2 issues. First, did you actually get a notice? Second, can they take your refund?

What do I do if the IRS takes my state tax refund?

If you have a federal tax debt, they can take your state refund. This is called an “offset.” If this happens, you get a notice from the Minnesota Department of Revenue and from the IRS. If you want to argue the offset, you need to follow the instructions on your IRS notice and contact the IRS directly. Sometimes, the deadline to do something can be as little as 30 days. It is important to read all IRS notices carefully! The federal rules are different from Minnesota offset rules. Call a lawyer if you have questions.

Fact Sheets are legal information NOT legal advice. See a lawyer for advice.

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