

**ADMINISTRATIVE PROCEDURES ACT**

**ADOPTED RULES**

**1984**

Adopted Rule Number: **84-21**  
**(84P004)**

Entitled:

**Tax Offset of Court Ordered Fines, Hearing  
Procedure**

**BOX 84A1**

**FOLDER 21**

receipt is on form  
APA-4A

Form APA-5A  
84. A21

COVER SHEET FOR ADOPTED RULE

- 1. TITLE OR SUBJECT OF RULE: Tax Offset of Court Ordered Fines  
Hearing Procedure
- 2. AGENCY: Human Services
- 3. AGENCY'S REFERENCE NUMBER (If any):
- 4. SECRETARY OF STATE'S REFERENCE NUMBER FOR EARLIER PROPOSED RULE: 84-P4
- 5. THIS RULE TAKES EFFECT FROM June 2, 19 84 THROUGH indefinite
- 6. LIST SPECIFIC STATUTORY SECTIONS GIVING AUTHORITY FOR THIS RULE:

32 VSA §§5936 and 5940; 3 VSA §§809 through 813.

- 7. DOES THIS ADOPTED RULE CONTAIN A RULE BY REFERENCE? Yes  No

If yes, attach statement required by 3 V.S.A. Section 838(d).

- 8. SUMMARIZE CHANGES MADE TO THIS RULE SINCE IT WAS PROPOSED  
(Attach additional sheets if necessary. If no change, write "None".)

The rule has been amended, as suggested by the Legislative Committee, making it generic of the Agency of Human Services, rather than specific for the Department of Corrections.

- 9. HAVE THE ECONOMIC COSTS AND BENEFITS OF THIS RULE CHANGED SINCE IT WAS PROPOSED? Yes  No

If yes, attach a new "Summary of Economic Impact" (Form APA2).

10. THE AGENCY COMPLETED PROCEDURAL REQUIREMENTS ON THESE DATES:

A. Proposed rule filed with Interagency Committee on Administrative Rules	<u>January 9, 1984</u>
B. Proposed rule filed with Secretary of State	<u>January 9, 1984</u>
C. First publication	<u>January 26, 1984</u>
D. Second publication	<u>February 2, 1984</u>
E. Hearing date or dates (if applicable)	<u>February 14, 1984</u>
F. Deadline for filing comments	<u>February 21, 1984</u>
G. Final proposed rule filed with Legislative Council and Secretary of State	<u>May 18, 1984</u>

11. CERTIFICATION BY ADOPTING OFFICER

I have reviewed this rule. To the best of my knowledge, we in the agency have complied with all requirements of 3 V.S.A. Chapter 25 and with the rules of the Secretary of State's office and the Legislative Committee on Administrative Rules issued under that chapter. This rule is the most advantageous method for achieving the regulatory purpose at the least cost.

Date: MAY 15 1984  
("adopting officer" is the official empowered by statute to issue the rule; must sign personally and cannot delegate.)

Signature: Lloyd F. Novick  
Name (Type or print): Lloyd F. Novick, M.D.  
Title: Secretary, Agency of Human Services

12. ATTACHMENTS:

<input checked="" type="checkbox"/> Summary of economic impact (Form APA-2A; if applicable)	<u>2</u> pages
<input type="checkbox"/> Incorporation by reference statement (Form APA-3A; if applicable)	_____ page(s)
<input checked="" type="checkbox"/> Adopting page (Form APA-4A)	<u>1</u> page
<input checked="" type="checkbox"/> Text of rule	<u>4</u> page(s)
<input type="checkbox"/> Other: _____	_____ page(s)

Title or Subject of Rule: Procedure for State Tax Offset of Court ordered fines.

Agency: Human Services (Corrections)

1. STATEMENT OF ECONOMIC IMPACT - In 100 words or less -- based on the list of specific economic effects on the reverse side of this form and accompanying pages -- briefly describe the economic impact of the proposed rule. Include specific dollar amounts for net cost and/or saving.

No impact anticipated. In fact, additional outstanding revenue (fines) will be collected at no additional cost to the State. Money collected will be put into the General Fund. The only cost will be to the Department of Corrections for the cost of publishing the proposed rule.

2. ALTERNATIVE METHODS - The agency is required by law to determine that the proposed action is the most advantageous method for achieving the regulatory purpose.

3. Are there less expensive alternatives, including no rule on the subject, that you have considered? Yes  No

b. If "yes" why did you reject them?

3. COMPLETE LIST OF SPECIFIC ECONOMIC EFFECTS

Directions: Using the reverse side of this form and as many additional copies of this side as necessary, separately list and explain each economic effect. Please number them consecutively.

In Column 1, list the specific type of persons, enterprises, state or local government agencies, or other entities affected. Note that there might be more than one economic effect on one entity, in which case you'll need to list the entity more than once.

In Column 2, give a capsule heading in a few underlined words; briefly describe the economic effect; estimate the dollar cost or saving for a single entity; estimate the number of persons, enterprises, agencies or other entities affected; calculate the total dollar amounts of cost or saving. In all cases please give specific dollar estimates.

In Columns 3a-3d, fill in the dollar amounts for total estimated statewide cost and/or saving. (If a cost or saving for a particular effect is zero write "None" or put a dash after the dollar sign.)

Col. 1 State, Territorial, Federal, or Other Agency	Col. 2 For or Paid to Party for Direct/Indirect/Calculated or Total Poller Amounts on All Persons or Entities	Total Estimated Statewide Benefit			
		Col. 3a One-Time Cost	Col. 3b Continuing Annual Cost	Col. 3c One-Time Saving	Col. 3d Annual Saving
		\$ _____	\$ _____	\$ _____	\$ _____
		\$ _____	\$ _____	\$ _____	\$ _____
		\$ _____	\$ _____	\$ _____	\$ _____
		\$ _____	\$ _____	\$ _____	\$ _____

NO IMPACT ANTICIPATED

PROVIDE ON LAST PAGE ONLY -- FOR THE COMPLETE LIST:

SUBTOTAL -- GOVERNMENT AGENCIES \$ \_\_\_\_\_  
 SUBTOTAL -- ALL OTHERS \$ \_\_\_\_\_  
 TOTAL \$ \_\_\_\_\_

STATE OF VERMONT  
RECEIVED

VERMONT ADMINISTRATIVE RULE

1984 MAY 18 PM 3:10

ADOPTING PAGE

SECRETARY OF STATE  
DEPUTY SECRETARY OF STATE

PLEASE DON'T WRITE IN THIS SPACE

Effective Date:

Expiration Date:

1. TITLE OR SUBJECT: Tax Offset of Court Ordered Fines  
Hearing Procedure
2. AGENCY: Human Services.
3. TYPE OF RULE  
 Proposed Rule  
 Adopted Rule  
 Emergency Rule
4. AGENCY'S REFERENCE NUMBER (If any):
5. EFFECT ON EXISTING RULES: None
6. STATUTORY AUTHORITY: 32 VSA §§5936 and 5940; 3 VSA §§809 through 813.

Action 1.

To establish a new rule.

RECEIVED

MAY 17 1984

DEPARTMENT OF SECRETARIES

PROPOSED REGULATIONS

HEARING PROCEDURE FOR STATE TAX OFFSET APPEALS

32 VSA Chapter 151, Subchapter 12 permits the Agency of Human Services to certify to the Commissioner of Taxes debts owed to the Agency of Human Services. The Commissioner of Taxes is in turn authorized to collect debts for the Agency of Human Services by setting off the debts against any income tax refunds which the state may otherwise owe to a debtor taxpayer.

Pursuant to 32 VSA §5940 and 3 VSA Chapter 25, the Secretary of the Agency of Human Services has adopted the following rules and regulations for the conduct of state tax offset appeals brought under 32 VSA §5936. Appeals taken under these regulations are limited to contesting the amount and validity of a contestant's debt. Procedure for "State Tax Offset Appeals".

1. Definitions

As used in these regulations:

- a. "Claimant Department" means any department within the Agency of Human Services.
- b. "Contestant" means a person who contests a claimant department's assessment of his debt to the claimant department.

2. Informal Resolution

- a. Prior to the initiation of an appeal under these regulations, the contestant and the claimant department are encouraged to attempt a negotiated settlement.
- b. Prior to an appeal and upon a contestant's request, a claimant department shall provide the contestant with any information relevant to the claimant department's computation of the debt.

3. APPEALS

a. State Tax Offset Appeal

- i. A taxpayer whose state income tax refund has been set off by the Vermont Department of Taxes may apply to the Secretary of the Agency of Human Services for a "State Tax Offset" hearing.
- ii. The taxpayer must request a hearing no later than thirty (30) days after the Tax Department mails the taxpayer the notice of setoff.
- iii. A decision under a "State Tax Offset Appeal" shall be determinative of the amount of the contestant's debt for purposes of tax setoff certification to the Vermont Department of Taxes.

Appeals continued

b. Child Support Debt Appeals (IRS Tax Offsets and Contested Child Support Debt)

- i A person whose child support debt to the Department of Social Welfare has been certified to the Internal Revenue Service for the purposes of setoff against his or her federal income tax refund, or a person who wishes to contest the Department of Social Welfare's assessment of his or her child support debt, may request a "Child Support Debt Appeal."
- ii A "Child Support Debt Appeal" may be requested at any time any may be joined with a "State Tax Offset Appeal."

4. Initiation of Appeals

- a. All appeal requests shall be in writing and shall be sent to the claimant department.
- b. The contestant's appeal request shall contain:
  - i The contestant's computation of the total amount, if any, owed the claimant department;
  - ii A concise statement of the basis of the contestant's computation;
  - iii The contestant's home address, social security number; and,
  - iv A request for hearing.

5. Notice of Hearing

- a. Within thirty (30) days after receipt of an appeal request, the claimant department shall forward the petition to the Secretary or the designated hearing officer for filing and scheduling unless the request is withdrawn.
- b. The Secretary, or the designated hearing officer, shall set a date, time, and place of hearing, and shall give the parties written notification of the same including purpose of the hearing, statutory authority, Vermont Administrative Rule Number, and statement of the contested debt.
- c. Mailing shall constitute actual knowledge to that person or party.

6. Conduct of Hearings

- a. Hearings shall be conducted by a hearing officer designated by the Secretary.
- b. Parties to the hearing may be represented by counsel.
- c. Oral proceedings shall be recorded. The record shall contain the pleadings, motions and intermediate rulings, including the following:

Conduct of Hearings continued

- i All evidence received or considered;
- ii A statement of matters officially noticed;
- iii Questions and offers of proof, objections, and rulings thereon;
- iv Proposed findings and exceptions; and,
- v Any decision, opinion or report.

7. Discovery/Evidence

- a. If requested by the claimant prior to the hearing date, the claimant department shall provide the contestant with any information relevant to the claimant department's computation of the debt.
- b. The parties may present relevant evidence and arguments. Oral testimony shall be under oath.
- c. Civil rules of evidence, as applied in Vermont courts, shall be followed.
- d. Notice that notice may be given of judicially cognizable facts in accordance with Title 3, Vermont Statutes Annotated, §810(4).

8. Decisions

- a. The hearing officer shall determine the amount of debt, if any, owed to the claimant department. Within thirty (30) days of hearing, a decision shall be rendered stating the amount of the debt owed. If a tax setoff is involved, the decision shall also include the amount of the tax refund to be applied toward the debt and the contestant's outstanding balance after the setoff. The decision shall include a concise statement of the facts and conclusions of law relied upon.
- b. The hearing officer may base an order upon the parties' stipulation or agreement. The parties, or the contestant alone, may stipulate to a discontinuance of the appeal at any time.
- c. In the event a party fails, without good cause, to appear at the scheduled time and place after receiving notice, the hearing officer shall issue a default order based upon evidence or affidavit.
- d. Parties shall be notified, either personally or by mail of any order or decision. Mailing shall constitute actual knowledge to that person or party.

9. Appeals

- a. The hearing officer's decision may be appealed within thirty (30) days to the superior court of the county in which the contestant resides.

Appeals continued

- b. Appeals to superior court shall be governed by the Vermont Rules of Civil Procedure.
10. This proposed rule is intended to supercede Rule 83-A15.

CERTIFICATION BY ADOPTING OFFICER

I have reviewed the proposed rule change as requested by the Committee and have approved it. To the best of my knowledge, we in the agency have complied with all requirements of 3 V.S.A. Chapter 25 and with the rules of the Secretary of State's office and the Legislative Committee on Administrative Rules issued under that chapter. This rule is the most advantageous method for achieving the regulatory purpose.

Date: 3/29/84

Signature: Lloyd F. Novick

Name: Lloyd F. Novick, M.D.  
(Type or print)

Title: Secretary, Human Services Agency

("Adopting officer" is the official empowered by statute to issue the rule; must sign personally and cannot delegate.)