



WHEN THEY KEEP YOUR 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 money. 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, and fines or restitution in criminal cases.

ARE THERE TIMES THAT THEY CAN'T TAKE MY REFUND?

Even if you owe the money, they cannot 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. For example, if your medical bill was from **2000**, then your income in 2000 must have been:
 - \$8,800 or less for a single person;
 - \$11,270 or less for a person with 1 dependent;
 - \$13,330 or less for a person with 2 dependents;

Call the Department of Revenue at (651) 296-0230 to get the figures for other years or for more than 2 dependents

- Your debt is for an overpayment of public assistance, and you still get public assistance. This means MFIP, GA, child care assistance etc. 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;

- how you can contest the revenue recapture; and
- that you can appeal.

HOW DO I APPEAL?

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 do not 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 of 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 appeal:

- Write to the agency to ask for an appeal.
- Your 45 day appeal time does not start running 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?

To find other Legal Aid Society materials, including any fact sheets mentioned in this document, go to www.lawhelpmn.org/LASMfactsheets.

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 Write us for updates, a fact sheet list, or alternate formats.
 Fact Sheets aren’t a complete answer to a legal problem.
 See a lawyer for advice.