

Employment and Training Administration Advisory System U.S. Department of Labor Washington, D.C. 20210	CLASSIFICATION UC TOP
	CORRESPONDENCE SYMBOL DL/DPM
	DATE May 26, 2011

ADVISORY: **UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 02-09, Change 2**

TO: STATE WORKFORCE AGENCIES

FROM: JANE OATES /s/
Assistant Secretary

SUBJECT: Recovery of Unemployment Compensation Debts Due to Fraud or to Working while Claiming Benefits from Federal Income Tax Refunds

1. **Purpose.** To inform states of updates to the procedures to implement a program to recover unemployment compensation (UC) debt under the “Treasury Offset Program” (TOP) and to provide responses to frequently asked questions about the implementation process.

2. **References.** Public Law No. 110-328; the “SSI Extension for Elderly and Disabled Refugees Act;” Title III of the Social Security Act; the Internal Revenue Code (IRC), including the Federal Unemployment Tax Act (FUTA); 31 CFR 285.8 “Offset of tax refund payments to collect state income tax obligations;” and 28 U.S.C. § 1746 “Unsworn declarations under penalty of perjury;” Sections (b)(2), (l)(10), and (p)(4) of 26 U.S.C. § 6103 “Confidentiality and disclosure of returns and return information;” 26 U.S.C. § 6402 “Authority to make credits or refunds;” Internal Revenue Service (IRS) Publication 1075, “Tax Information Security Guidelines for Federal, State and Local Agencies;” Unemployment Insurance Program Letter (UIPL) No. 02-09, “Recovery of Unemployment Compensation Debts Due to Fraud from Federal Income Tax Refunds;” UIPL No. 02-09, Change 1, “Recovery of Unemployment Compensation Debts Due to Fraud from Federal Income Tax Refunds;” UIPL No. 22-96 “The Immediate Deposit and Withdrawal Standards” (61 Fed. Reg. 27101 (May 30, 1996)); Treasury Offset Program, “Technical Bulletin,” Number UIC 11-02, February 11, 2011 and UIPL No. 11-11, “The Claims Resolution Act of 2010 (P.L. 111-291) and the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L.111-312) – Provisions Affecting the Federal-State Unemployment Compensation Program”.

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3. **Steps to Implement TOP for UC Debts.** The regulations for the offset of tax refund payments to collect UC debts owed to states have been approved and were published on January 28, 2011, in the Federal Register (<http://www.gpo.gov/fdsys/pkg/FR-2011-01-28/pdf/2011-1697.pdf>).

On February 14, 2011, the U.S. Department of the Treasury's Financial Management Service (FMS) started accepting referrals of UC debts from the states and the Federal tax offset processing was initiated.

However, prior to referring UC debts to TOP, FMS must receive:

- A formal communication from the IRS regarding the approval of the state's Safeguard Procedures Report,
- A signed Debt Certification Agreement (Attachment 1) from the state, and
- An Agency Profile (Attachment 2) form from the state.

These steps are discussed in more detail below.

4. **Safeguard Procedure Report (SPR).** UC TOP is authorized under IRC 6402 and 6103(l)(10), and agencies receiving refund offset payments and the associated data are subject to the safeguarding requirements of IRC 6103(p)(4) and Publication 1075, *Tax Information Security Guidelines for Federal, State and Local Agencies*.

The Safeguards Program and staff are responsible for ensuring that Federal, state and local agencies receiving Federal tax information (FTI) protect it as if the information remained in IRS' hands. Under IRC 6103(l)(10), disclosure of FTI (REFUND OFFSET DATA) to contractors is not permitted.

These agencies receiving FTI must protect the confidentiality of return information and are periodically reviewed by Safeguards personnel to ensure they meet the safeguarding requirements of IRC 6103(p)(4). These requirements include employee awareness programs, proper disposal, secure storage, and computer security among others.

Information on the IRS SPR process may be obtained from the IRS Safeguard Program web site: <http://www.irs.gov/businesses/small/article/0,,id=177651,00.html>

Agencies shall submit their SPR on the template developed by the IRS Office of Safeguards. The most current template may be obtained from IRS.GOV keyword "Safeguards" or requested by emailing SafeguardReports@irs.gov. In addition, the SPR template may be obtained from the IRS Safeguard Program web site:

http://www.irs.gov/pub/irs-utl/irs_safeguards_spr_template.doc

SPR Submission Guidance

- The SPR must be accompanied by a letter on the agency's letterhead signed by the head of the agency or delegate, and dated.

- Files must be sent encrypted via IRS approved encryption techniques. E-mail encryption procedures using the WinZip Utility may be obtained from the IRS Safeguards Program web site at:
<http://www.irs.gov/businesses/small/article/0,,id=177419,00.html>
 - Once the WinZip file is submitted to the IRS Office of Safeguards mailbox, ensure you receive an automated confirmation e-mail. If an automated response is not sent back, please e-mail the IRS Office of Safeguards mailbox without attachments and request assistance.
 - Please note that the IRS Office of Safeguards does not accept hard copy submissions.
5. **Debt Certification Agreement.** States must submit a signed certification agreement to TOP prior to referral of their debts to TOP. This certification agreement will need to be renewed annually. The certification agreement (Attachment 1) will be valid for Calendar Year (CY) 2011.

Please complete, sign, and mail the original agreement to:

Financial Management Service
Debt Management Services
Attn: Sara Garris
401 14th Street, SW, Room 229C
Washington, D.C. 20227

6. **Agency Profile Validation.** All states are required to complete and provide an agency profile prior to referring debts to TOP. The agency profile should be reviewed annually and updated as required. This information is used to print the TOP Notice of Offset letter to inform debtors of the offset action. Debtors will not be able to contact their state if the contact information in the TOP system is not correct. If changes are necessary, please complete the Agency Profile form (Attachment 2) and mail to:

Financial Management Service
Debt Management Services
Attn: Sara Garris
401 14th Street, SW, Room 229C
Washington, D.C. 20227

7. **Policy on Scheduling Testing.** FMS Debt Management Services (DMS) has instituted a policy for state agencies making requests to DMS to conduct testing and for new states that will be joining the TOP in the future. All requests for testing with the DMS Information Technology (IT) Technical Support Team will be scheduled according to the following policy.

- Requests for testing should be submitted in writing via email to the agency's DMS liaisons. (See liaisons below.) The state agency must provide a clear description of the type of testing needed and the name, telephone number, and email address of the agency's Point of Contact (POC). The DMS Liaison will acknowledge receipt of the request and convey acceptance of the testing and start date. Once the request for testing has been accepted, a member of the DMS IT Technical Support Team will communicate directly with the agency's POC.
- Requests for conducting testing, i.e., test matches, application integration and data transmission, should be submitted 45 days prior to the start of the test. It is possible that the testing may begin immediately, depending on DMS' work load but advance notice is requested so scheduling may be prioritized. (The advance notice does not include the timeframe for conducting the test.)
- All testing will be conducted in a test environment.

Requests for conducting testing should be sent to: Becky Park at becky.park@fms.treas.gov and copy Sheila Moss at sheila.moss@fms.treas.gov.

8. **Fiscal Year (FY) 2011 Fees.** For unemployment compensation debts, the TOP fee will be as follows:

Tax Refund Offset \$17.00 for FY 2011.

Please note that the fee may change on a yearly basis.

9. **Action Requested.** State administrators should distribute this advisory to appropriate staff.
10. **Inquiries.** Inquiries regarding TOP should be addressed as follows (these are not toll-free numbers):

For Technical Assistance, Testing, Security, Agency Profiles, and Implementation, please contact:

Debt Program Support Branch
Horace Tate
(202) 874-7081

For Agency Training and Program Support, please contact:

Debt Program Relations Branch
Tom Kobielus
(202) 874-7359

For TOP Technical Bulletins - (202) 874-3810.

Please contact Sheila Moss at 202-874-6937 or Becky Park at 202-874-9451 if you have any additional questions.

Note: Notices sent out by FMS refer individual debtor questions to the Help Desk at 1-800-304-3107 (this is a toll-free number).

11. **Attachments.**

Attachment #1: Treasury Offset Program, “Agreement to Certify Debts Electronically for Federal Tax Refund Offset to Collect,” Unemployment Compensation Debts Owed to States

Attachment A:
Treasury Offset Program Certification Terminology

Attachment #2: Creditor Agency Profile Input Form

Attachment #3: Question and Answers (Q&As)