

Natural Resources Board
Process for Setoff Debt Collection Program

(Adopted: February 11, 2014)

The Natural Resources Board (Board) developed this review and appeals process pursuant to the Vermont Setoff Debt Collection Program, sponsored by the Department of Taxes. The Setoff Debt Collection Program requires participants (e.g., state boards) to provide debtors with “the opportunity for a hearing before an impartial state employee having authority to remove taxpayers’ names from the certification list.” 32 V.S.A. Ch. 151.

The Board’s setoff debt process is as follows:

A. Notice

1. During the month of October, written setoff debt notice letters are sent.
2. The setoff debt notice letter contains the following information:
 - a) the setoff debt procedure (sending names to VT Department of Taxes on certification list for capture of income tax refund);
 - b) the amount and basis for the alleged debt;
 - c) the option to pay the debt in full immediately;
 - d) the Board’s hearing and Court appeal processes; and
 - e) possible defenses which may be available to debtors.

B. Request for Board Hearing

1. Any person who receives a setoff debt notice letter from the Board may request a hearing challenging the validity and amount of the debt owed, but not the underlying violation.
2. A request for hearing must:
 - a) be received within 30 days of the date of the mailing of the setoff debt notice letter;
 - b) identify the debt determination being challenged;
 - c) contain the name of the person or persons who are contesting the determination;

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- d) contain a concise statement describing the objection(s) to the debt determination;
 - e) include any documentary evidence supporting the request for review;
 - f) contain a statement of the relief requested; and
 - g) be signed by the person(s) contesting the determination or his or her attorney.
3. If the request for hearing does not comply with the above, the NRB may dismiss the request, enter the debt as a default, or provide an extension of time for an amendment of the request.

C. Hearing Process

1. Prior to hearing, it shall be determined whether the debt is based on an accounting or other record keeping error. If the debt is based on an accounting or other record keeping error, the requestor is notified in writing that their name will be removed from the certification list.
2. If it is determined that the debt is not based on an accounting or other record keeping error, the NRB Chair appoints an appropriate person to review the request and hold a hearing by phone, electronically, or in-person as requested. A hearing may also be held solely on written evidence at the option of the requestor. The person reviewing the file and holding the hearing shall not be the attorney previously assigned to the underlying enforcement matter.
3. If a hearing is requested a notice of hearing with the date, time, and manner of the hearing shall be sent to the Requestor. Hearings shall be recorded.
4. If the requesting party fails to appear for the hearing without good cause shown, and the review hearing has not been rescheduled, the hearing request shall be dismissed.
5. A record will be maintained, which shall include:
 - a) the written request for review;
 - b) all evidence received or considered;
 - c) an audio recording of any hearing;
 - d) the proposed findings of fact; and
 - e) a proposed determination.

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6. The reviewing person shall draft proposed findings of fact and proposed determination exclusively based on the evidence in the record.
7. The reviewing person shall not discuss the matter with any NRB staff member who has been actively involved in the disputed matter, except to request a copy of the financial information at issue and to present the matter to the Chair of the Board after the hearing.
8. The reviewing person will present the record, proposed findings of fact and proposed determination to the Chair of the NRB for a final determination.

D. Final Determination

1. The Chair of the NRB shall review and, as necessary, modify the proposed findings of fact and determination. The Chair shall issue the final determination.
2. The final findings of fact and determination shall be mailed to the requestor.

E. Appeals of a Final Determination to the Court

Any party aggrieved by an adverse final determination may appeal the decision within thirty (30) days of issuance of that decision to the civil division of the superior court of the unit in which the taxpayer resides pursuant to 32 V.S.A. § 5936.

F. Notification of Final Setoff Amount to Debtor

1. Upon conclusion of any administrative review and/or appeal granted under this section and upon notification by the commissioner of taxes of the result of any review under 32 V.S.A. §5935, each debtor shall be notified that a final setoff has occurred. The notice shall include the amount of:
 - a) refund transferred to the NRB;
 - b) final determination of debt owed to the NRB;
 - c) refund, if any, returned to a non-debtor spouse; and
 - d) any outstanding balance due the debtor after final setoff.
2. Any outstanding balance due the debtor shall be provided along with the notice of the final setoff.