



APPEALS GUIDELINES DOCUMENT

Important Information Regarding Appeals of Tax Return Setoff

Section 40-18-103, Code of Alabama 1975, authorizes a taxpayer to contest the setoff of their income tax return. The taxpayer must file a written contest with the municipal claimant agency within 30 days of notice of the setoff. Failure to apply for such a hearing, in writing, within the 30-day period is deemed a waiver of the opportunity to contest the setoff. In the case of a joint return or a joint refund, the notice shall also state the name of the taxpayer named in the return, if any, against whom no debt is claimed, the fact that a debt is not claimed against such taxpayer, the fact that such taxpayer is entitled to receive a refund if it is due him or her regardless of the debt asserted against his or her spouse, and that in order to obtain a refund due, such taxpayer must apply, in writing, for a hearing with the municipal claimant agency within 30 days of the date of the mailing of the notice. If a taxpayer fails to apply in writing for such a hearing within 30 days of the mailing of such notice, the taxpayer will have waived the opportunity to contest the setoff.

While it does not specifically reference municipal claimant agencies, MIS recommends that municipal claimant agencies follow the hearing procedures outlined Section 40-18-104, Code of Alabama 1975, if a taxpayer timely files a written contest of the setoff of their income tax return. Section 40-18-104, Code of Alabama 1975, provides that if you, as the claimant agency, receive a protest or application in writing from a taxpayer within 30 days of the notice issued by MIS on your behalf, you must do the following:

- set a date to hear the protest that is not less than 15 days from the date of the notice of the hearing to the taxpayer; and
- give notice of the date, time and place of the hearing to the taxpayer by registered or certified mail

If, at the hearing, the sum asserted as due and owing is found not to be correct, an adjustment to the claim may be made. No issues shall be reconsidered at the hearing which have been previously litigated.

The hearing officer shall give notice to the debtor of his or her final determination and inform the debtor of his right to appeal such final determination to the Circuit Court of Montgomery County or to the circuit court of the county in which the debtor resides by filing notice of appeal with the head of the municipal claimant agency and with the clerk or register of the circuit court of the county to which the appeal shall be taken within 30 days from the date notice of final determination was given to the taxpayer by the municipal claimant agency.