



**DEPARTMENT OF UNEMPLOYMENT ASSISTANCE  
UI POLICY & PERFORMANCE  
INTEROFFICE MEMORANDUM**

Date: September 11, 2015

Classification: Treasury Offset Program

Rescission(s): None

Reference No.: UIPP 2015.07

TO: All DUA Managers, Job Service Representatives, Compliance Officers and Call Center Staff, Senior Staff Directors  
FROM: Jennifer Lavin, Director, Policy and Performance Department  
SUBJECT: Treasury Offset Program for Fraud Overpayments and Overpayments Due to Unreported Earnings (Fault or Non-Fault)

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**1. PURPOSE.**

To provide an overview of the Treasury Offset Program that allows states to intercept and apply Federal income tax refunds to unemployment compensation debts.

**2. REFERENCES.**

Unemployment Insurance Program Letter (UIPL) No. 2-09, Change 1 (June 18, 2010)

**3. BACKGROUND.**

On September 30, 2008, the President signed Public Law No. 110-328, the "SSI Extension for Elderly and Disabled Refugee Act." The Act amended Federal law to allow states to recover certain unemployment compensation debts due to fraud/fault or unreported earnings from Federal income tax refunds using the U.S. Department of the Treasury's *Treasury Offset Program (TOP)*. The amendment also established eligibility criteria and due process requirements that must be met before states initiate the TOP collection process (also referred to as a Third Party Intercept or "TPI" in UI Online).

Criteria for DUA TOP/TPI Intercept:

DUA will proceed with the TOP intercept process if:

- the finalized overpayment is due to fraud/fault or unreported earnings that may or may not be due to fault;
- the overpayment balance is greater than \$25;
- the claimant is not involved in bankruptcy proceedings;
- there is no pending waiver issue for the non-fraud overpayment due to unreported earnings;
- there is no pending appeal (timely or late) with Hearings, the Board of Review or the District court;
- claimant does not have an existing payment plan with a status of "Current."

Due Process Requirements:

Before commencing the interception process, states must:

- provide the debtor at least 60 days to present supporting documentation that all or part of the overpayment is not legally collectable or due to fraud or misrepresented earnings; and
- consider any evidence presented and determine that the amount of debt is legally collectable and due to fraud or misrepresented earnings while complying with all conditions required by the Treasury.

Claimants can request a review of the overpayment for the following reasons:

- they are not the person listed on the notice;
- they disagree with the amount of debt listed on the notice;
- they have already paid the debt in full;
- they have filed an appeal on the determination(s) that created the overpayment and the appeal has not been finalized yet;
- they have filed for bankruptcy; or
- they have filed an application for a waiver that has not yet been determined.

In order to request a review, the claimant must return the bar coded "Request for Review" form to DUA's Central Scanning unit within 60 days from the date the *Notice of Intent to Intercept Federal Tax Return* was mailed. If the request for review is received in UI Online after the 60 days has expired, the request will automatically be denied by UI Online. If the request is received within the 60 days, an authorized UI Benefit Collection staff member will review the request and either "approve" or "deny" the TOP intercept process. Claimants will be notified in writing, with a non-appealable determination, of the results of the request for review.

**Note:** the opportunity to present evidence is not a review of the initial determination, but rather a chance for both the claimant and DUA to agree on the amount of the overpayment that can be collected.

#### 4. ACTION.

DUA began mailing a *Notice of Intent to Intercept Federal Tax Return* to claimants with finalized overpayments due to fraud or misrepresented earnings in January 2015. DUA will begin offsetting Federal tax refunds beginning September 2015.

Claimants who believe their spouse is owed a portion of the intercepted Federal return must contact the Internal Revenue Service directly via form 837 (*Injured Spouse Allocation*).

Any questions regarding the Treasury Offset Program should be directed to the UI Benefit Collection Department at (617) 626-6300.