



## When They Keep Your State 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 or to the IRS. The tax department sends your refund to the agency that you owe. 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
- debts to public housing authorities, and
- fines or restitution in criminal cases



### Are there times that they can't take my refund?

Even if you owe the money, they can't 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. Call the Department of Revenue at (651) 556-3003 to get the income limits for the year you got the medical care. The income limit is based on the number of dependents you had in that year.
- Your debt is for an overpayment of public assistance, like MFIP or childcare **AND** you still get either the same kind of public assistance or SNAP (food stamps). 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
- that you can contest the revenue recapture, and
- how you can contest the recapture

### **How do I contest the recapture?**

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 that 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 contest the recapture:**

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

***Fact Sheets are legal information NOT legal advice. See a lawyer for advice.***

*Don't use this fact sheet if it is more than 1 year old. Ask us for updates, a fact sheet list, or alternate formats.*

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