

# Fall 2018—Post-Workshop and Year-end Edition

## Reminders

- J 2019 Participation forms due by December 21 or existing debts will be deleted and priority lost.
- J Holiday Schedule—we will be closed Dec. 24-28 and Jan. 1. This time of year there are no setoffs occurring and will not begin prior to January 15, 2019.

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## Six Training Workshops Completed—Largest Attendance Ever

Nearly 400 people, 381 to be exact, attended the six workshops in October. Based on feedback, it appears to be the most informative one yet. Thanks to all attendees for attending as we get ready to end one tax season and begin another.

Most of the attendees are those with new responsibilities or need a refresher. Many of you know the rules, regulations and requirements but still attend to hear about security, year-end and preparing for the new year.

If you were unable to attend, there are handouts in pdf format on the Training page.

The next training workshops will be in October 2019. Dates and locations will be set by June 2019. However, call us toll-free

at (866) 265-1668 if you have questions, need assistance or training. We will also work with your third-party vendors and I.T. support staff.

If you have any comments on the workshops or a topic wasn't covered please email or call us.

### Updates:

- J Federal Tax setoffs— no further word, not expecting anything in the near future
- J Setoffs against Businesses—even though the law allows for it, the NC Dept. of Revenue has not yet implemented. Nothing expected in the near future

### Obtaining Social Security Numbers:

We strongly recommend that local governments continue the good practice of mailing “due process notification letters” to all known debtors, regardless if you have the debtors Social Security Number or not, as some debtors may contact you and initiate payment of outstanding debts. But, more importantly, by going ahead and mailing the due process notification letters, you will have satisfied the requirement to provide such a notice and you are able then to submit debts to the Debt Setoff Program once Social Security Numbers can be obtained through your own contracted lookup service provider. Contact us if you need a recommendation on an SSN lookup provider.

## 2019 Participation Form Information

- J The 2019 Participation Form is available and ready for online submission. Last year we implemented an electronic signature process so there is no longer a requirement to send a signed original to the NCACC or NCLM.
- J Once Step #1, the online 2019 Participation form is submitted, a follow-up email with Step #2, the electronic signature form will be sent, usually within one business day.
- J The deadline to complete and ensure debts are rolled over into 2019 is Friday, December 21. We will be sending reminders to those who haven't completed BOTH steps.
- J To check your status, check the Participants page on the website.
- J Only one form is needed for each local government.
- J There is an instruction guide on the top part of the form that can viewed in order to

assist.

### Additional documents:

- J Health Depts. and EMS participating for the first time need to complete a one-time the Business Associates Agreement. Contact your NCACC or NCLM contact for the required document.
- J Housing Authorities can participate if submit a one-time Rider form, available on the forms page.

**Statutes are more associated with the age of the debt's activity, not how long a debt is submitted for collection. Debts are considered active if an invoice/statement sent within the past 3 years (10 yrs. for taxes). Do NOT assume debts can only be in Debt Setoff for three years!**



**Best method for verifying the Clearinghouse has only the debts you desire.**

## Statute of Limitations (Debt Expiration Date)

This topic is one of the most difficult in providing exact guidance. There are differing opinions. There are some local government attorneys that feel that the Statutes of Limitations do apply to state government but not to local governments. Many agree with a 1996 N. C. Attorney General opinion that the Statutes do not apply to local government debts under the Debt Setoff program. Other attorneys have opinions that if the debtor does not appeal within 30 days after receiving the required notification letter then debts will never expire. But if appealed within 30 days then the statute may apply—

you can go 10 years back months for taxes and 3 years back for any other type of debt.

Both the NC Association of County Commissioners and the League of Municipalities advise you to consult your attorney and be sure they feel comfortable defending their opinion of the Expiration Dates being submitted by your local government.

If it is determined that some or all of your existing debts can be extended, the Expiration Dates may need to be modified and re-submitted. Let us know if we can assist as we can easily

modify these dates with our software. Don't just assume you have to expire all debts after 3 years! If a bill/invoice/statement was sent, or a payment was received, within 3 years (10 years for taxes) from the time you sent the debtor the required due process letter, it may never need to expire. We have many local governments using expiration dates of 2020, 2050 and even 2099. We have collected thousands of debts older than three years. Often it takes many more than three before your debt is even next in line because of other previous debts.

## Sample Delinquent Debt Scenarios

Type of Debt	Delinquent	Last Activity*	Eligible for Debt Setoff	Reason
Tax	2002	2010	YES	Activity within 10 years
Utility	2011	2016	YES	Activity within 3 years
Health	2015	2015	YES	Activity within 3 years
Tax	2004	2005	NO	Activity more than 10 years
EMS	2010	2014	NO	Activity more than 3 years

\* Verifiable invoice/billing statement sent or payment received.

Those eligible to be submitted to debt setoff do not need to expire unless local government officials/attorney choose not to.

## Need an Excel File of All or even just one department?

1) How would an excel file of all of your debts help?

**It can be reviewed to ensure all desired debts are included and those no longer needed can be deleted.**

2) What information is included? **SSN (last four unless authorized), Name, Address, City, State, Zip, Debt Amount, Compliance Date, Expiration Date, Account Number, Unique ID,**

**Agency Code, Department, Setoff Amount and Setoff Date.**

3) Is it in a format that can be re-submitted back to the Clearinghouse once edited? **It has all of the information but is in a different order and needs to be modified.**

4) Can an excel file of just one department be created? **Yes, let us know which one(s).**

5) Can the excel file be

emailed? **No, it is uploaded to your secure folder.**

6) How to request an Excel File? **Send an email request to: [ncsetoff@ncsetoff.org](mailto:ncsetoff@ncsetoff.org)**

**Tip: our Client software can export your own Excel file, all or selected departments, with even more information, such as date added, letters printed.**

## Reminders about Debtors and Debts

- J ANY debt owed to a local government can be submitted as long as delinquent 60 days. Don't forget about fines/fees for: alarms, animal control, code enforcement, civil citations, demolitions, EMS, environmental, fire district, health dept., landfill, lawn maintenance, library, nuisance, ordinance violations, parking tickets, property tax, recreation, rent, returned checks, sewer tap, solid waste, special assessments, storm water and utilities. Even employees can be submitted. Perhaps they didn't return equipment or had education/training that required them to work a minimum number of years.
- J Even though the General Statutes allow, the Dept. of Revenue will not setoff Business ID numbers, only social security numbers or ITINs. You need a business owner's SSN/ITIN and Name. Do not use the Business name.
- J We DO NOT combine debts to reach the \$50 minimum. So each row in an Excel file, ASCII file and each debt in the software must be \$50 or more.
- J A debt that has been setoff and the balance is less than \$50 is not resubmitted to Dept. of Revenue.
- J Debts must be combined by the local governments to reach \$50. Remember, debts over \$50 should stand alone. Only combine a debt less than \$50 to others to get to \$50 or one less than \$50 to one over \$50.
- J Do not combine any non-tax debt to a tax debt, even if needed to reach \$50.
- J Be sure your vendors/third-parties are aware of these combine/standalone rules. Signing the participation form certifies compliance.
- J We suggest noting debts combined, using all account numbers or if not enough room, some kind of indicator such as "\*" or "\*C\*".

**For security reasons, the Clearinghouse:**

- 1) **provides only the last four digits of SSN in ALL Excel files after a setoff.**
- 2) **provides the entire nine digit SSN in only the match.dat file (ASCII) for counties and large municipalities who request it.**

## Debtor Social Security Number and Name Issues

When the Clearinghouse submits debtors to the Dept. of Revenue each Tuesday, there are many debtors that we know we will not collect for. Since we can only send one name and address for each SSN/ITIN what if the Name we are sending to the Dept. of Revenue is not correct. Our policy is to use the first occurrence of a debtors name and address for an SSN/ITIN. If this first occurrence SSN/ITIN and name is incorrect and another local government at a later date submits the correct name associated with this SSN/ITIN it will still not be setoff until the incorrect occurrence is fixed or removed. However, this can be resolved due to the fact that the Dept. of Revenue provides lists of all debtors that the SSN and Names do not match. We compile this information and provide a list in late November of these rejected debtors to all local governments associated so they can research and make corrections to the name and/or SSN. Be aware that sometimes the SSN lookup service provid-

ers have the incorrect SSN for a name. The Clearinghouse removes all rejected debtors in late November, prior to sending the rejected list to the local governments. This way, it removes the first occurrence of a name and SSN that is incorrect and moves the next name with that SSN to the top, This next occurrence may now be correct and the debts may be setoff.

A realistic example/scenario: SSN: 949-12-3456 with name of Jane Public sent to the Clearinghouse on 12/15/2016 and is the first use of this SSN. Priority established for this SSN and Name.  
*Note: the local government made an error and transposed the two digits -3456 should've been -3465. The Clearinghouse is unaware that the SSN doesn't match the name. when originally submitted to the Dept. or Revenue in late December 2016. However, the Dept. of Revenue provided it on a list in late 2017 and the Clearinghouse deleted*

*this SSN and name in late November 2017 and provided a list to the local government submitting this rejected debtor.*

SSN: 949-12-3456 with name of James Smith sent to the Clearinghouse on 12/31/2016 and is the second debtor with this SSN. No priority established for this SSN and Name as there is a debtor already submitted (Jane Public) with this SSN, even though a different name *Note: this name is the correct name and SSN but is not being submitted due to a different name submitted earlier for this SSN. However, at this time the Clearinghouse does not know that Jane Public is not the name for this SSN.*

*In the above scenario no debts for the SSN 949-12-3456 will be setoff at the Dept. of Revenue in 2017. However, beginning in 2018 there is a great possibility since Jane Public is no longer the name being sent to the Dept. of Revenue and James Smith is now being sub-*

**The Department of Revenue will automatically setoff a debtor's tax refund if the Social Security Number AND the first four characters of the last name being submitted by the Clearinghouse matches exactly what the Dept. of Revenue has. If no match, the Dept. of Revenue staff has to manually research to see if there is a name change or another issue that can determine if it is the requested debtor and setoff the tax refund.**



**The 2019 Participation Form requires the identification (name and title) of the Hearing Officer. It should be the same person for all department hearings for the local government. Although Hearings are rare they are important and is required by the statutes regarding debt setoff.**



## Hearings—Rare but Important and Required by the General Statutes

One issue that could jeopardize the entire debt setoff program for local governments is not following due process, which is the law. Once a debt is delinquent 60 days the debt setoff notification letter can be sent to the debtors last known address via regular postal mail. The letter informs the debtor that the debt(s) are being submitted to the NC Local Government Debt Setoff Clearinghouse. The debtor is given 30 days from the date the letter was mailed to submit an official request, in writing, for a hearing. If the request is not in writing or is late (over 30 days) there is no requirement for a hearing. However, it is to the discretion of the local government as to whether an appeal is scheduled if the official written request is a few days late.

The local government must have a designated hearing officer. It can be a local government attorney, a high-level official such as the Manager/Clerk or Mayor. However, it cannot be the person presenting on behalf of the local government. There is no rule or law stating there can only be one Hearing Officer. However, only one is recommended so that standard procedures can be adhered to. And note that official written requests for hearings are rare. The debtors are very likely to call and complain (or worse) or attempt to set up a payment plan but they usually do not go to the trouble of sending a written request for an appeal.

There are various requirements/suggestions for the Hearing Officer:

) Be knowledgeable about the

debt

- ) Have authority to compromise the debt
- ) Must be impartial—have no conflict
- ) Allow all parties to be represented by counsel
- ) Follow the same process equally for all appeals

Pre-Hearing Duties:

- ) Receive appeal letter from debt Setoff Coordinator
- ) Schedule the hearing as soon as possible.
- ) Send hearing request letter to debtor informing them of the time, date and location of the hearing. Also identify the person conducting the hearing and a contact person in the event of questions.

- ) Create rules of procedure and use for each hearing
- ) Create opening script stating purpose, rules or order and use for each hearing
- ) Create closing script and use for each hearing
- ) Set stage for hearing (simulate courtroom if possible)

Hearing Duties:

- ) Follow rules of procedure
- ) May record proceedings
- ) Swear in witness (standard oath)
- ) Require all comments directed to hearing office and speak when appropriate
- ) Only allow issues raised in appeal letter
- ) Exercise control

Post-Hearing Duties:

- ) At conclusion, render a decision, after reviewing all evidence. May take reasonable time to review all evidence prior to making a decision.
- ) Do not reopen hearing to take further evidence unless all parties notified
- ) Consider only evidence presented at hearing to render decision
- ) Provide written decision to all parties. Doesn't have to be certified but is highly recommended.
- ) Keep copies of all documents and retain according to any statutes regarding retentions and records keeping.

Other miscellaneous information regarding due process:

- ) Do not send a due process letter prior to a debt being 60 days delinquent
- ) We recommend generating the due process letters from our client software which has the verbiage approved by the legal staff of the NC Association of County Commissioners and League of Municipalities.
- ) Letters must have the local government letterhead, not a third-party. The contact information, including phone number, must be the local government's, not the third-party.

If anyone has any hearing forms/documents, such as rules of procedure, please email to [ncsetoff@ncsetoff.org](mailto:ncsetoff@ncsetoff.org) and we may make anonymous versions to provide to others.

### Expired Debts:

- ) An Excel file of debts expiring by December 31, 2018 will be provided the week of Nov. 26.
- ) The Excel file only stays in the secure folder for 10 days. Contact the Clearinghouse to have it restored.
- ) For security reasons, only the last four of the SSN are provided. We also provide the Account Code/Dept. in order to sort and distribute to other users, if necessary.
- ) All Expired debts will be deleted at the Clearinghouse the week of Dec. 24—28, removing the priority date of those debts. If a local government resends the debt that was expired, even with an adjusted expiration date, the priority date starts over.
- ) More detailed instructions will be provided with the Excel file in late Nov.

### Client Software Users:

- ) download the expired list using the TRANSMIT-IMPORT FROM CLEARINGHOUSE-SELECTIVE. There is also a global update to extend expired or soon to be expiring debts: TOOLS-USER-CHANGE EXPIRATION DATE
  - ) Client software users should run the EXPIRATION REPORT and use the following three dates:
    - 12/31/2018: expiring this year
    - 06/30/2019: expiring by end of major tax season
    - 12/31/2019: expiring next year
- Contact us if we can assist in extending any or all expiration dates. Using our global update.

### Rejected SSNs:

- ) An Excel file of debts with SSNs and associated names rejected by the Dept of Revenue will be provided the week of December 3.
  - ) The Clearinghouse will delete these debts from our system at the time the file is provided. If same SSN and name is resent, priority is now at end of the line so if another local government has the same SSN and a different name, that priority moves up and is sent to the Dept. of Revenue. Reminder, we can only send one name per SSN to the Dept of Revenue each Tuesday so we take the name with the highest priority.
  - ) The Excel file lists the entire SSN as it is invalid with the name submitted. We also provide the Account Code/Dept. in order to sort and distribute.
  - ) Please attempt to correct the SSN and/or name. If submitting a Business name, it will continue to be rejected by Dept. of Revenue. Change to individual's SSN/ITIN and name.
  - ) Please research the SSN for validity, often there are digits transposed or miss-typed. And sometimes an SSN lookup service will even provide an inaccurate SSN.
- ### Client Software Users:
- ) Select TOOLS-USER-CHANGE SSN to correct an SSN (as long as the corrected SSN doesn't already exist).

### Debts and the Interactive Voice Response (IVR):

- ) We will delete all debts less than \$50 on December 31. This removes the priority date for those particular debts. It will also remove those debts from the IVR.
- ) Beginning January 1, 2019 if a debt doesn't exist at the Clearinghouse (after the removal of debts less than \$50 on December 31) but is sent to us and

the amount is less than \$50, it is not loaded. Thus it does not get placed in our IVR for callers. However, all debts \$50 or more are loaded and are placed on the IVR.

- ) Balances of \$50 or more, sent to us after January 1, 2019, will be loaded and provide information to callers to our Interactive Voice Response (IVR) unit for the entire 2019 year.

### Reminders:

- ) Send required due process notification letters to debtors by Friday December 15, 2018 in order to be compliant for the start of tax refund processing in mid-January 2019.

### Client Software Users:

- ) Clean-up options for the Admin user:
  - Delete \$0.00 debts
    - All \$0.00
    - \$0.00 not setoff
  - Delete < \$50 debts
    - All < \$50
    - < \$50 not setoff
  - Deleting Expired Debts
    - All expired
    - \$0.00 and expired
    - < \$50 and expired

All of the above options do ALL account codes/departments. If only one or more, but not all are desired contact the Clearinghouse and we can perform selective deletions.

- ) If resisting deleting debts less than \$50 as a result of already paying for SSN lookups and want to retain, consider creating an Excel file first with SSN (if have full SSN report access). Then burn to a CD/DVD and store securely and then delete these debts. You can access the SSNS form CD/DVD in future if necessary.



**Cleanup—it's a great idea for security reasons.**

**Do you really need to keep debts you can no longer collect due to less than \$50?**

**Consider deleting at least those that are \$0.00 and even better less than \$50 that were NOT setoff.**

**For security reasons, the Clearinghouse:**

**1) provides only the last four digits of SSN in ALL Excel files after a setoff.**

**2) provides the entire nine digit SSN in only the match.dat file (ASCII) for counties and large municipalities and to those client software users, if requested.**



http://www.ncsetoff.org  
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N. C. Department of Revenue  
 Debt Setoff Unit  
 (919) 814-1119

N. C. Capital  
 Management Trust (NCCMT)  
 (800) 222-3232

## Client Software Version 2018 Update

### Reminders/Notifications:

- ) We can assist you in printing your notification letters, even import a logo for letter-head and generate a pdf version to save for proof, if ever needed.
- ) We can also assist with year-end clean-up functions:- mid-December is the BEST TIME!  
 deleting expired debts (DO NOT DO BEFORE 12/11/2018—wait until the last setoff file of 2018 is processed and imported)  
 deleting debts \$0.00, and/or less than \$50.00 (DO NOT DO BEFORE 12/12/2018—wait until the last setoff file of 2018 is processed and imported)
- ) Even though our software can generate letters, you must copy to a network drive and/or burn to a DVD or external media in the event of a new or replacement computer, as they reside on your local computer under the NCDebtsetoff/report folder. The Clearinghouse does NOT retain copies of you due process notification letters. It is your responsibility to prove you met the statutes by sending to the last known address. So please make a copy of the letters or save the pdfs (recommended).

### Updates during 2018 and included in latest version, 2018.08a:

- ) Added option so that user admin can change the TRANSMIT password (have new icon and instruction pdf also)
- ) Fixed bug for Compliance and Expiration Reports when selecting one department/account code

### Getting Ready for 2019 Tax Year:

Expiration Start Date:	01/01/2000
Expiration End Date:	12/31/2018

1. Run Expiration Report with the following criteria:

Select ALL account codes or the desired/allowed account code(s), together or one account code at a time

The above dates will display any Expiration Dates that have already expired or will be expiring by the end of this year. Another suggestion is to see what debts will expire before the end of the next major tax season:

Expiration End Date:	06/30/2019
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Or the end of 2019: 

Expiration End Date:	12/31/2019
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Consider extending these dates for another year(s) or more using the global option. Contact us to connect and easily extend.

2. **Financial/Auditing (CRITICAL):**

- ) Run Setoff Reports **before** any year-end clean-up options are executed and even if no cleanups are executed. These are valuable for auditors and/or financial reconciliation:

Run for each setoff file date where funds were received, (see the 2018 Setoff Calendar on website **AND** match-up with Capital Management deposits) for the ALL codes option and also for each account code

Run for the Past Fiscal Year date range for ALL and each account code

Note: Setoff reports will work for setoffs occurring **AFTER** the local government began using the client software.

3. Contact us if you are using a software version that is not 2018.xx