

**Summary of Notification and Appeals Process  
Setoff Debt Collection Notice Requirements and Hearing Procedure  
(N. C. G. S. 105A-5)**

1. A local agency may not submit a debt for setoff collection until the local agency has given notice to the debtor, given the debtor an opportunity to be heard and the claim has been finally determined.
2. The local agency must send **written notice** (Note: see “Sample debtor notification letter attached”) to the debtor that the local agency intends to submit the debt owed by the debtor for collection by setoff.
3. The Notice must:
  - a. Explain the basis for the agency’s claim to the debt;
  - b. Inform the debtor that the agency intends to apply the debtor’s tax refund against the debt;
  - c. Inform the debtor that a collection assistance fee of \$15 will be added to the debt if it is submitted for setoff;
  - d. Inform the debtor that the debtor has right to contest the matter by filing a request for a hearing with the local agency;
  - e. Inform the debtor that the debtor has **30 days** (after the date the local agency mailed the notice of the proposed action to the debtor) to file a **written request** for a hearing with the local agency;
  - f. Inform the debtor that a decision made after a hearing must determine whether a debt is owed to the local agency and the amount of the debt;
  - g. Inform the debtor that a request for a hearing is considered to be filed when it is delivered for mailing with postage prepaid and properly addressed; and
  - h. Inform the debtor that failure to request a hearing within the required time will result in setoff of the debt against the debtor’s tax refund.
4. Notice of Hearing after Request by Debtor (Note: see “Sample Debtor Notice of Hearing”)
  - a. Inform the debtor of the time, date and the place for the hearing.
  - b. Inform the debtor who will hear the challenge
  - c. Provide the debtor with a pre-hearing contact person
  - d. Inform the debtor that after the hearing, the local agency will mail to the debtor’s last known address, a written decision as to whether the debt is owed and the amount;
5. Post Hearing Procedure (Note: see “Sample Post Hearing Notification Letter”)
  - a. Advise the debtor of the hearing decision
  - b. Inform the debtor that if the debtor disagrees with the decision of the governing body or the person designated by the governing body to hold the requested hearing, the debtor may file a petition for a contested case under Article 3 of Chapter 150B of the General Statutes (the Administrative Procedure Act); and
  - c. Inform the debtor that the petition for a contested case must be filed within 30 days after the debtor receives a copy of the local decision.
  - d. **Note: While the statute does not require it, you should send this notification letter by certified mail return receipt requested since the appeal time runs from the date the debtor receives notification of the decision. Common sense dictates that you need a record of this.**

6. Tracking sheet. A “Sample Debtor Information Tracking Sheet” is provided to help you insure compliance with the requirements of the Setoff Debt Collection Act before submitting the debt to the CLEARINGHOUSE for collection.

**NOTICE: This summary and the sample letters referred to is intended as a guideline only. It is not a substitute for consultation with the municipal attorney. If it is found that you have failed to comply with Chapter 105A, The Setoff Debt Collection Act, and more specifically N.C. 105A-5 you will be required to send to the taxpayer the entire amount setoff plus the collection assistance fee retained by the North Carolina Department of Revenue and interest.**

**SAMPLE DEBTOR NOTIFICATION LETTER**

January 1, 2003

Mr./Ms. \_\_\_\_\_  
 2001 Smithway Avenue  
 Anywhere, NC 29999

RE: Notice of Debt Owed to the local agency of \_\_\_\_\_  
 Intention to setoff debt  
 Mr./Ms. \_\_\_\_\_  
 Social Security Number: \_\_\_\_\_

Dear Mr./Ms. \_\_\_\_\_:

*(For a single debt of \$50 or more)*

Our records indicate that you owe the following past due amount to the local agency of \_\_\_\_\_

<b>Explanation of Debt</b>	<b>Bill Date</b>	<b>Date Past Due</b>	<b>Past Due Amount</b>
Water Service	December 2, 2001		\$76.55
Interest (12 mos)	December 2, 2002		4.59
<b>Total Debt</b>			<b>\$81.14</b>

*(For two or more debts, each of \$50 or more)*

Our records indicate that you owe the following past due amounts to the local agency of \_\_\_\_\_

<b>Explanation of Debt</b>	<b>Bill Date</b>	<b>Date Past Due</b>	<b>Past Due Amount</b>
Water Service	December 2, 2001		\$76.55
Interest (12 mos)	December 2, 2002		4.59
<b>Total Debt</b>			<b>\$81.14</b>

<b>Explanation of Debt</b>	<b>Bill Date</b>	<b>Date Past Due</b>	<b>Past Due Amount</b>
Em. Medical Services	December 2, 2001		\$50.00
Interest (12 mos)	December 2, 2002		3.00
<b>Total Debt</b>			<b>\$53.00</b>

*(For two or more debts that exceed \$50 when combined)*

Our records indicate that you owe the following past due amounts to the local agency of \_\_\_\_\_

<b>Explanation of Debt</b>	<b>Bill Date</b>	<b>Date Past Due</b>	<b>Past Due Amount</b>
Water Service	December 2, 2001		\$15.00
Interest (12 mos)	December 2, 2002		.90
Total Debt			\$15.90

<b>Explanation of Debt</b>	<b>Bill Date</b>	<b>Date Past Due</b>	<b>Past Due Amount</b>
Em. Medical Services	December 2, 2001		\$20.00
Interest (12 mos)	December 2, 2002		1.20
Total Debt			\$21.20

<b>Explanation of Debt</b>	<b>Bill Date</b>	<b>Date Past Due</b>	<b>Past Due Amount</b>
Parking Violation	December 2, 2001		\$25.00
Interest (12 mos)	December 2, 2002		1.50
Total Debt			\$26.50

As authorized by North Carolina General Statutes, Chapter 105A-2 (6), The Setoff Debt Collection Act (the "Act"), the local agency of \_\_\_\_\_ intends to submit the above \_\_\_\_\_ (*debt/debts*) to the North Carolina Department of Revenue for collection by applying the \_\_\_\_\_ (*debt/debts*) against any income tax refund in excess of \$50 that you may be entitled to receive.

*(Choose the appropriate paragraph or modify accordingly if other combinations apply)*

*(For a single debt of \$50 or more)*

Additionally, you are further advised that in accordance with the Act, a local collection assistance fee of \$15 will be added to the obligation or account described above if it is submitted for set off.

*(For two or more debts, each of \$50 or more)*

Additionally, you are further advised that in accordance with the Act, a local collection assistance fee of \$15 will be added to each obligation or account described above if it is submitted for set off.

*(For two or more debts that exceed \$50 when combined)*

Additionally, you are further advised that in accordance with the Act, a local collection assistance fee of \$15 will be added to the obligations or accounts described above if they are submitted for set off.

You have the right to contest this action by filing a written request for a hearing with the local agency of \_\_\_\_\_ . Your request must be filed at the following address no later than 30 days from the postmarked date of this letter. Your request for hearing may be filed within the specified time by delivering it to the local regional agency office or by delivering it for mailing with postage prepaid and properly addressed to the local agency at the following address.

Local agency of \_\_\_\_\_  
PO Box 500  
Anywhere, NC 29999

Failure to request a hearing within the 30 days time limit will result in the setoff of the above debt, and the addition of the applicable local collection assistance fee.

Yours truly,

\_\_\_\_\_  
(Name and position)

Cc: \_\_\_\_\_, Debt Setoff Officer

**SAMPLE DEBTOR NOTICE OF HEARING**

Mr./Ms. \_\_\_\_\_  
2001 Smithway Avenue  
Anywhere, NC 29999

RE: Notice of hearing  
Debt owed to the local agency of \_\_\_\_\_  
Intention to setoff debt  
Mr./Ms. \_\_\_\_\_  
Social Security Number: \_\_\_\_\_

Dear Mr./Ms. \_\_\_\_\_

Pursuant to your request, dated \_\_\_\_\_, and as provided by North Carolina General Statutes, Chapter 105A-2(6), The Setoff Debt Collection Act, a hearing will be held \_\_\_\_\_ (time and date) at \_\_\_\_\_ (location of hearing) to give you the opportunity to be heard on the above matter. The matter will be heard before \_\_\_\_\_ (name and position of hearing official of the local agency governing body). If you have any questions please contact \_\_\_\_\_ (local debt setoff contact person) at \_\_\_\_\_ (phone number).

After the hearing, the local agency will mail to your last known address, a written decision as to whether the debt is owed and the amount.

Yours truly,

\_\_\_\_\_  
(Name and position)

**SAMPLE POST HEARING NOTIFICATION LETTER**

Mr./Ms. \_\_\_\_\_  
2001 Smithway Avenue  
Anywhere, NC 29999

RE: Notice of hearing decision  
Debt owed to the local agency of \_\_\_\_\_  
Intention to setoff debt  
Mr./Ms. \_\_\_\_\_  
Social Security Number: \_\_\_\_\_

Dear Mr./Ms. \_\_\_\_\_

Pursuant to your request, dated \_\_\_\_\_, and as provided by North Carolina General Statutes, Chapter 105A-2 (6), The Setoff Debt Collection Act, a hearing was held \_\_\_\_\_ (Date of hearing) to consider your challenge to the local agency of \_\_\_\_\_ intention to submit the above debt to the North Carolina Department of Revenue for collection by applying the debt against any income tax refund you may be entitled to receive.

**(Choose the appropriate paragraph)**

[This is to inform you that the decision of the (hearing officer)(Board) is that the debt is owed in the amount of \$ \_\_\_\_\_. If you disagree with this decision of the \_\_\_\_\_ (Hearing Officer) (Governing Body), you may file a petition for a contested case under Article 3 of Chapter 150B of the North Carolina General Statutes, The Administrative Procedures Act. This petition must be filed with the Office of Administrative Hearings within 30 days after you receive this letter.]

(Or)

[This is to inform you that the decision of the \_\_\_\_\_ (Hearing officer) (Governing Body) is that the debt is not owed. The county will not submit the debt to the North Carolina Department of Revenue for collection through the Setoff Debt Collection Act.]

Yours truly,

\_\_\_\_\_  
(Name and position)

**Note: While the statute does not require it, you should send this notification letter by certified mail return receipt requested since the appeal time runs from the date the debtor receives notification of the decision. Common sense dictates that you need a record of this.**

**SAMPLE DEBTOR INFORMATION TRACKING SHEET**

**1. Debtor Information:**

<b>Name:</b>	
<b>Address:</b>	
<b>City/Zip</b>	
<b>SSN:</b>	

**2. Debt Information:**

<b>Explanation of Debt</b>	<b>Bill Date</b>	<b>Amount</b>

**3. Appeal Hearing Information:**

**a. Notification**

<b>Notification Procedure</b>	<b>Date</b>
<b>Date Letter Mailed to Debtor</b>	
<b>Deadline Date for Debtor Appeal Notice (30 days from above date)</b>	
<b>Postmark Date of Debtor Appeal Letter</b>	
<b>Date of Actual Receipt of Debtor Appeal Letter</b>	

**b. Administrative Review**

<b>Review Procedure</b>	<b>Complete ↓</b>
<b>Date/Time of Hearing</b>	
<b>Date Notice of Hearing Mailed to Debtor</b>	
<b>Decision of Hearing (circle debt confirmation decision)</b>	<b>Owed Not Owed</b>
<b>Date Decision Mailed to Debtor</b>	
<b>Final Date for Petition to Contest Decision (30 days from date debtor receives above notice of decision)</b>	

**4. Clearinghouse Information**

<b>Submittal Information</b>	<b>Date</b>
<b>Date debt information sent to Clearinghouse</b>	
<b>Comments Below</b>	