

**Collection and Use of Social Security Numbers
and the
N.C. Local Government Debt Setoff Clearinghouse Program**

I. Collection of social security numbers from individuals

Under state law [G.S. § 132-1.10], generally a government may not collect a social security number from an individual unless authorized by law to do so or unless the collection of the social security number is otherwise imperative for the performance of that agency's duties and responsibilities as prescribed by law. The latter is most likely a high threshold to meet.

For purposes of Setoff Debt Collection, G.S. § 105A-3(c) authorizes a claimant agency to obtain a social security number from any person for whom the agency provides any service or transacts any business and whom the claimant agency can foresee may become a debtor. Therefore, a city or county is authorized to collect a social security number. However, the individual is not required to provide the number. [For additional explanation, see item IV below.]

State law also provides that social security numbers collected by a government must be relevant to the purpose for which they are collected and that the numbers shall not be collected until and unless the need for the numbers has been clearly documented.

II. Requirements associated with collection of the social security number from an individual

Under provisions found in both state and federal laws [G.S. § 132-1.10, G.S. § 143-64.60 and 5 U.S.C. § 552a (footnote)], when requesting a social security number from an individual, the agency must inform the person:

- (1) whether the disclosure is mandatory or voluntary,
- (2) by what statutory or other authority the number is solicited, and
- (3) what uses will be made of the number.

Therefore, when requesting the social security number for use in association with Setoff Debt Collection, it is recommended that the information above be posted in the office, printed on the form that requests the number, and included in any oral explanation used in collecting the number.

III. Other uses of the social security number

G.S. § 132-1.10 specifies that governments are not allowed to use the social security numbers obtained from the individual for any purpose other than the purpose stated in the notices described above.

IV. Mandatory disclosure of social security numbers by individuals

There are very limited circumstances when local governments may require an individual to disclose his or her social security number. [For example, employment and related tax withholding purposes.] The authority to obtain a social security number for setoff debt collection provided in G.S. § 105A-3(c) mentioned above only authorizes the collection of the number. It does not authorize a city or county to require disclosure.

Further, if an individual refuses to disclose the social security number upon request, there are no means available for the government to compel the disclosure. In fact, under the federal and state privacy acts, it is unlawful for any state or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his or her social security number.

Therefore, there will be instances, including requests for social security numbers under G.S. § 105A-3(c) [Setoff Debt Collection], when local governments are permitted to ask for a social security number, but they will not be able to require its disclosure.

V. Storage and release of social security numbers

G.S. § 132-1.10 provides that governments, when collecting a social security number from an individual, must segregate that number on a separate page from the rest of the record, or as otherwise appropriate, maintain the number in a manner where it may be more easily redacted pursuant to a valid public records request. This statute also provides that governments may not intentionally communicate or otherwise make available to the general public a person's social security number.

VI. Social security numbers on mailed documents

Effective July 1, 2007, G.S. § 132-1.10 provides that a government may not print an individual's social security number on any materials that are mailed to the individual, unless state or federal law requires that the number be on the document mailed.

Therefore, since the Setoff Debt Collection notice procedures provided in Chapter 105A do not require the use of a social security number on the various letters and notices prescribed therein, all participants in the Debt Setoff Clearinghouse Program must delete any references to social security numbers in all mailed communications to debtors. To help facilitate this requirement, we have modified the forms provided by the Clearinghouse.

VII. Identify theft protection is a serious matter

The restrictions and other regulations upon the collection and use of social security numbers have come about because of increasing instances of identify theft. The following excerpt from a news article in the March 16, 2006 edition of The News & Observer, Raleigh, North Carolina, clearly illustrates the problem:

“The identities of about 300,000 North Carolinians are stolen each year, according to the Attorney General's Office. An average victim spends \$800 and 175 hours over 23 months to clean up the mess, which usually amounts to about \$18,000 in fraudulent charges.”

VIII. Further information

We encourage you to discuss the collection and use of social security numbers in your jurisdiction with your local attorney. Additionally, the following statutory references will be useful: G.S. § 132-1.10, G.S. § 143-64.60 [State Privacy Act] and 5 U.S.C. § 552a (footnote) [Federal Privacy Act].

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