



Advocacy. Service. Innovation.

Welcome to:

*Municipal Association of South Carolina's*

## Setoff Debt Collection Program

### New Participants Training Session

August 25, 2015

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This program enables participants to collect past due debts for:

- Court fines
- Garbage fees
- Property taxes
- Student loans
- Utility bills
- Etc.



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### Who can participate?

- Municipality
- Utility
- Special purpose district
- Housing authority
- State agency, board, commission, committee
- Institution of higher learning (public and private)



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Okay, I understand the concept.



Explain the “big picture.”



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Customers owe participants money for delinquent debts.



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Participants use the Setoff Debt application to manage debtor information.



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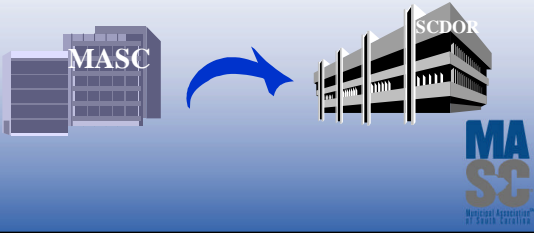
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The Association compiles all the information and sends it to the SC Department of Revenue by December 1.



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The Department of Revenue reduces the debtor's state income tax refund by the debt amount plus the \$25 DOR fee.



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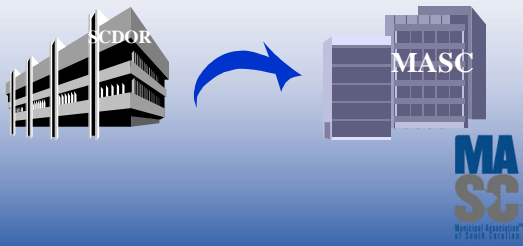
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DOR returns monies collected to the Association minus a \$25 fee.



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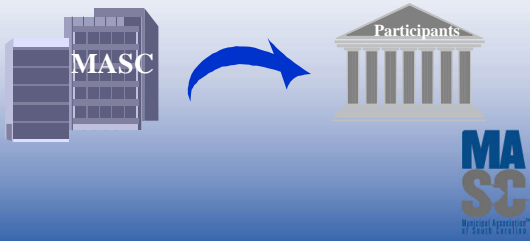
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The Association returns money collected to the appropriate participants less a \$25 administrative fee.



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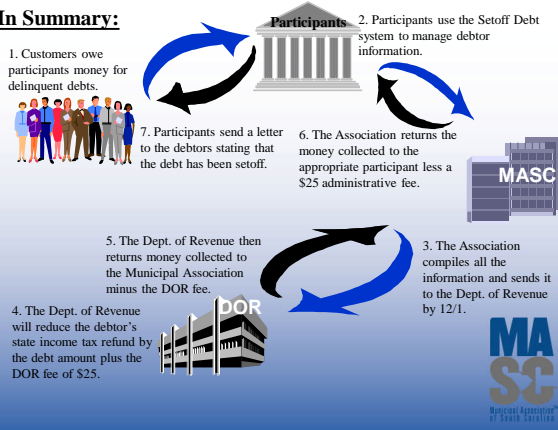
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**In Summary:**



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What authorizes participants to collect these outstanding debts?

The Setoff Debt Collection Act  
(#1)



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The Setoff Debt Collection Act requires:

Guaranteeing Due Process

1. Give debtors 30 days notice by mail that debts will be turned over to DOR.

- Initial Letter.
  - Mail notice to last known address.
  - Notice must follow substantially the text in (§12-56-62).
  - Notice must include appeal procedures (§12-56-62).



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The Setoff Debt Collection Act requires:

Guaranteeing Due Process

2. Establish an appeal process.

- Hearing officer must be appointed (§12-56-65A).
  - *The Hearing officer cannot be a magistrate or municipal judge. (#3)*
- Notify DOR of hearing officer's name, address, phone number (§12-56-65 A).
  - Form due to the Association by 10/19 (DOR #1A).



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**DOR 1A**

SC Code 12-56-65 states a hearing officer shall be appointed to hear a protest of a debtor.

\_\_\_\_\_  
Name of Claimant Agency

\_\_\_\_\_  
Hearing Officer's Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone number

SC Code 12-56-100 states that the claimant agencies shall indemnify the Department of Revenue against any injuries, actions, liabilities, or proceedings arising from performance, under the debt setoff provisions.

\_\_\_\_\_  
Signature of Setoff Debt Coordinator

\_\_\_\_\_  
Date

Mail to: Myan Jencks, Municipal Association of SC, PO Box 12109, Columbia, SC 29211



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The Setoff Debt Collection Act requires:

Guaranteeing Due Process  
Provide an Opportunity to be Heard

**What the Debtor must do:**

- File a written protest within 30 days of initial letter (§12-56-63).
- Protest must include name, address, SSN, type of debt in dispute and detailed statement of reason for protest.



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The Setoff Debt Collection Act requires:

Guaranteeing Due Process  
Provide an Opportunity to be Heard

**What the Participant must do:**

- Using DOR #1B form, notify DOR when a protest letter is received (§12-56-65 B).
- Notify debtors who protest of date, time, and place of hearing (§12-56-65 B).
- Hold an informal hearing where debtor may present evidence.



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The Setoff Debt Collection Act requires:

Guaranteeing Due Process  
Provide an Opportunity to be Heard

**What the Hearing Officer must do:**

- Hear the protest.
- Decide either in favor of the debtor or the claimant agency.
- Send Certificate of Hearing to the Department of Revenue (DOR 1C) (§12-56-65 B).



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The Setoff Debt Collection Act requires:

Guaranteeing Due Process  
Provide an Opportunity to be Heard

*After the hearing is completed...*

- If officer rules in favor of claimant agency – proceed to setoff.
- If officer rules to decrease debt – adjust debt and proceed to setoff.
- Send notification to debtor of decision. (DOR 1C & 1D)

If officer rules in favor of debtor – debt will not be setoff.



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The Setoff Debt Collection Act requires:

Guaranteeing Due Process  
Provide an Opportunity to be Heard

*Debtor's next action...*

- Debtor has 30 days to contest hearing officer's decision
- Debtor can contest before an administrative law judge (Circuit Court if applicable)



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The Setoff Debt Collection Act requires:

Guaranteeing Due Process  
Provide an Opportunity to be Heard

*ALJ Ruling Favors Debtor...*

- Before setoff,
  - reduce debt in the Setoff Debt application.
- After setoff occurs,
  - refund to debtor the setoff, administrative fees and the \$25 administrative fee retained by DOR.



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## Guaranteeing Due Process Notifications to the Debtor

Debtors must be notified in writing when their debts are setoff.

❖ Send notification letters to debtors



**Note:** The DOR sends a Notice of Adjustment to the debtor after a setoff has occurred.




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## Summary of the Setoff Debt Collection Act Appeal Procedures/Process (#2)

- Initial letters\* must be sent to all debtors via regular mail
- An appeal process must be established, as explained in §12-56-65
- Debtors must be notified in writing\* once debts are setoff
  - Notice of Adjustment - DOR (#4)



*\*The setoff debt application generates the letters for you.*

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### South Carolina Department of Revenue - Notice of Adjustment (#4)




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## Multiple Claims Priority

*S.C. Code §12-56-70*

- Department of Revenue
- DSS – Division of Child Support
- Other DSS and state agencies
- IRS and institutions of higher learning
- Other agencies




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## Participating in Setoff Debt Collection Program

Step-by-Step





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## Requirements

TO DO LIST

RECEIVED \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

1. Participation Form (#5)
2. Direct Deposit Authorization Form (#6)
3. Resolution to Participate (#7)
4. → *Municipalities Only* – Ordinance (#8)  
→ *Other Entities* – Resolution relating to the recovery of collection costs (#8)
5. Agreement (#9)
6. Copy of Customer’s Agreement/Service Contract (#10)
7. Initial Letter Certification (#12)




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## Recommendations

- Include in your service contracts language such that the applicant authorizes your entity to run credit checks including, but not limited to, the setoff debt system.
- Try to obtain SSNs when service first setup (§12-56-30 C).
  - Cannot deny service if customer refuses to submit his/her SSN. (*Privacy Act of 1974*)
- The Municipal Association will help you obtain missing SSNs (#11)



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## Method of Identifying SSN's

#11

The Municipal Association will use a widely accepted locate and research tool.

- Debtors can be flagged in the setoff debt application software as needing to be researched.
- The Association will invoice the claimant agency based on what the research agent charges.



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## Timeline

(#14)

### September 21

- ✓ Complete Participation Form
- ✓ Enter contact, user and fee information into the system

### October 13

- ✓ Enter new claims and bills
- ✓ Deadline to enter all information in the application for SSN research
- ✓ Mail initial letters to debtors at their last known address

### October 19

- ✓ Hearing Officer form due to the Association
- ✓ Initial Letter Certification form due to the Association



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## Timeline *Continued* (#14)

### November 18

- ✓ Complete Direct Deposit Authorization Form
- ✓ Pass resolution to participate
- ✓ Pass ordinance, if municipality
- ✓ Pass collection cost resolution, if non-municipality
- ✓ Signed agreement sent to Municipal Association
- ✓ Provide copy of enacted Customer Agreement/Service Contract Addendum to the Municipal Association
- ✓ SSN research return data entered into the system
- ✓ Release initial data to the Municipal Association



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MASC Municipal Association of South Carolina

Setoff Debt System

Home Users Reports Administration Change Your Mail Change Password Your Guide Logout

Welcome to the Setoff Debt System

**Upcoming Deadlines**

- Mandatory training session for New Participants will be held in Columbia on 8/25/2015.
- Mandatory training session for New Employees of Current Participants will be held in Columbia on 8/27/2015.
- Participation form due to MASC by 9/23/2015.
- Enter/Update Settings, Contact, User and Fee Information by 9/21/2015.
- Enter New Claims & Bills for Tax Year 2015 by 10/13/2015.
- All information to be sent for SSN research must be entered into the system by 10/13/2015.
- Print Initial Letters by 10/13/2015.
- SOBIA Hearing Officer form is due to the Association by 10/19/2015. This form can be printed from the system's Administration section under Resources & Forms.
- Initial Letter Certification form is due to the Association by 10/19/2015. This form can be printed from the system's Administration section under Resources & Forms.
- A copy of the enacted Customer Agreement/Service Contract Addendum is due from all New Participants 11/18/2015.
- Agreement & Resolution due from New Participants by 11/18/2015.
- New Participants: Ordinance due from Municipalities by 11/18/2015. Resolution due from Non-municipalities by 11/18/2015.
- The deadline to enter information returned from the SSN research is 11/18/2015.
- Release Initial Data to the Association by 11/18/2015.

**Ongoing Activities**

- Enter Payments & Adjustments
- Print Setoff and Reduced Letters

Municipal Association of South Carolina  
1411 Gervais St., P.O. Box 2700, Columbia, SC 29201  
Phone: 803.739.8024 Fax: 803.632.7200 [info@masc.org](mailto:info@masc.org)  
[www.masc.org](http://www.masc.org)

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That's a lot to remember.  
Is it written down?



Yes, refer to  
**Handouts #13 & 14**



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## Frequently Asked Questions

(#15)

### *Injured Spouse*

S.C. Code § 12-56-62

...If you file a joint return with your spouse, the amount will be deducted from the total joint refund without regard to which spouse incurred the debt or actually withheld the taxes...

### *Bankruptcy*

If you receive notice that a debtor is in bankruptcy, the claim cannot be setoff.

### *Accepting Payments After January 1*

Yes, you should accept payments after January 1.



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## Why use the Association's Setoff Debt Program?



The Association provides:

- . a user manual
- . yearly training session
- . on-going support
- . Web-based application:
  - designed and available at no charge
  - has all necessary letters and reports
  - allows users to upload data from existing software
  - allows users to download data



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Since 1993 - \$44.7 million

**2014 Tax Year**

168 Participants

\$2,509,354.90 (YTD)



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## Useful Resources

- Records Retention – SC Dept. of Archives & History
- State of SC Administrative Law Court
- Disabling Popup Blocker



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## It all sounds great!



But what does the actual software application look like?



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