

ArkTRECS Debt Setoff FAQs

What is the ArkTRECS debt setoff program?

The Association of Arkansas Counties' (AAC) ArkTRECS program allows any county, city, or local government entity to submit eligible delinquent debts through the ArkTRECS clearinghouse to the Arkansas Department of Finance and Administration's (DFA) debt setoff program. DFA will run a match file of the debtor's name and social security number against those taxpayers due a personal income tax refund.

If a match is found, DFA offsets the refund for repayment of the debt. While the state's debt setoff program has been used successfully for years, the ArkTRECS clearinghouse streamlines the process through consolidation and data-scrubbing.

What authorizes local governments to participate in the state's personal income tax debt setoff program?

Arkansas Annotated Code 26-36-301 authorizes DFA to offset any eligible amount due an Arkansas circuit, county, district, or city court, a housing authority, or a county collector or county treasurer.

Ark. Code Ann. 16-13-709 authorizes a county quorum court to delegate collection activities to a private contractor and AAC can be so delegated.

What debts are eligible for collection through the ArkTRECS debt setoff program?

For court debt, state law defines delinquent debts as any fines assessed in the circuit and district courts which remain unpaid for 90 days or more or for 3 payment periods. Fines include any monetary penalties imposed by the court and include fines, court costs, restitution, probation fees, and public service work supervisory fees.

For county collectors, any delinquent debt owed to the office of the county collector is eligible. However, ArkTRECS will not accept any debt that is certifiable to the Arkansas Commissioner of State Lands.

DFA has set the minimum debt at \$20 dollars and debts submitted to DFA must be in whole dollars.

How does a local government sign up to participate in ArkTRECS?

Each county quorum court must authorize funding for a "personal services" line item to pay the \$25 collection fee after offsets are received. For circuit and district courts, each county quorum court must pass an ordinance to delegate debt collection activities to AAC. The county judge then executes a binding contract with AAC to fulfill private collection responsibilities through debt setoff.

The binding contract is contained within the ArkTRECS MoU available on the AAC website. Executed documents should be sent to Lindsey Bailey at lbailey@arcountries.org.

Upon execution of the MoU, the participating entity completes the participation form and registration process accessed via AAC's website. The clearinghouse hosts web-based orientation and training sessions for all interested agencies.

Is there cost to participation in the ArkTRECS debt setoff clearinghouse?

The MoU sets a collection fee of \$25 per successful offset over \$30 net and AAC will bill monthly each participating entity the collection fees for setoffs occurring in the previous month.

DFA withholds 5% from each successful debt offset for its administrative expenses.

The debtor must be credited with the full amount of the offset, inclusive of the DFA 5% collection fee and the ArkTRECS \$25 collection fee.

What process must a public official follow to submit debts?

The participating entity must provide each debtor written notice sent to the debtor's last known address of the agency's intent to submit the debt for collection through the state's setoff program. To maximize debt setoff opportunities, written notices should be sent out by December 1 of each year. ArkTRECS will provide the letter format of the debtor notification letter, as required by the DFA.

Included in the letter is an explanation of the unpaid debt and the debtor's opportunity to contest the debt in writing within 30 days of the letter's date.

(ArkTRECS offers a letter preparation and mailing service to participating counties for a nominal fee.)

DFA must receive and approve a written sample of the debtor notice prior to debtor contact.

If the debtor fails to pay or contest the debt within the 30-day period, the local agency may submit the certified debt to the clearinghouse through a secure, web-based file transfer process. Each debt of \$20 or more is submitted separately within the file format requirements (provided on AAC's website).

Debts may only be submitted once per year (the amounts should be updated continuously as needed to reflect walk-in full payments or newly designated non-collectable debts), therefore no new debts may be added or debt amounts increased during the year. Debt files should be uploaded 30 days after the debtor notification letters have been sent but no later than December 15.

The ArkTRECS clearinghouse will generate the required summary letter to DFA to certify that all debtors have been notified and to provide the total number of accounts and total dollar amount loaded.

Does a county official need a debtor's social security number to submit debtors to the ArkTRECS clearinghouse?

ArkTRECS provides an SSN look-up service for debtor identification. However, if the participating agency collects and stores SSNs, then the clearinghouse can use this as additional information to validate the debtor's identity.

Can a county official submit debts for business owners?

Yes, if the business owner files a personal income tax return via an individual's personal SSN.

How are multiple claims prioritized against the same taxpayer refund?

DFA prioritizes multiple claims to the same refund in the order in which a claimant agency has filed written notice with DFA of its intent to effect collection through setoff. The clearinghouse sets a similar priority—first debt files received, first paid through setoff.

How often should a county official send data files (debtors/debts) to the ArkTRECS debt setoff clearinghouse?

Participating agencies are encouraged to refresh their files at least once a week (only debt amounts may be decreased or changed to \$0—no new debtors may be added).

ArkTRECS sends to DFA a new file daily to ensure that debt records are as current as possible.

If a debtor's record needs to be released to prevent a pending offset, a release action must occur by 5pm on the 24th of each month. The county must zero out the debt amount in order to release a pending offset.

DFA holds a joint return for an additional 30-day period to allow for a spousal contest.

How will the local government be able to reconcile the debts recovered through setoff?

An automated file will be generated in excel for easy upload into the agency's existing software system.

How are debtors notified that their tax refund has been offset?

DFA sends the debtor a letter with the amount that was setoff for indebtedness and includes a clearinghouse-provided toll-free number for the debtor to contact the county court receiving the offset. Thereafter, the local

government official will receive information from the clearinghouse on successful setoffs and the funds disbursement process.

For further questions, please contact Lindsey Bailey French at lbailey@arcourties.org or (501) 372-7550.

ArkTRECS Debt Setoff Process & Timeline

(Dates generally set to maximize offset opportunities)

