

TOP FAQ-2022

What is TOP? - Treasury Offset Program, the U.S. Department of the Treasury, through its Bureau of the Fiscal Service, administers and implements TOP, which authorizes and allows ADWS to receive and apply a portion or all of a claimant's federal income tax refund to repay applicable overpayments of unemployment benefits. The U.S. Department of Labor requires all state workforce agencies to participate in TOP.

Does DWS provide prior notification to claimants of the offset of federal income tax refund? – Yes, ADWS sends affected claimants a Notice of Intent to Offset letter more than 60 days before submitting any new overpayment debt to TOP. Spanish language version of this letter is available on request to Benefit Payment Control, PO Box 8007, Little Rock, AR 72203.

When will ADWS send new overpayment debts to TOP? – After March 19, 2023.

What overpayments are sent to TOP? – All fraud overpayments and all non-fraud earnings overpayments (cause code 10 or 11) that are past due and legally enforceable and with total balance due of \$25.00 or more and were established on or before October 1, 2022.

What does past due mean? – An overpayment is past due when there is any outstanding balance on the debt including penalty, interest and fees 20 days or more after the date the overpayment is established, even if the claimant is making monthly payments.

What does legally enforceable mean? – Not under appeal, in bankruptcy or beyond the statute of limitations.

Does TOP charge a fee? – Yes, the federal government deducts a \$21.14 fee from each offset it sends ADWS.

Can a claimant pay off the overpayment debt and avoid ADWS intercepting the federal income tax refund? – Yes, a claimant should pay off an overpayment debt before March 19, 2023 or at least 4 weeks before filing the federal income tax return.

If a person is making monthly payments, how can that overpayment be past due? - Overpayments are due when established. While ADWS allows a person to make monthly payments over a period of time to avoid garnishment or civil action, the total amount of the overpayment is due when established. Any amount owing 20 days or more after the established date of the overpayment is past due and subject to offset through TOP.

Can a claimant get a copy of his records? – Yes by writing: Division of Workforce Services, Benefit Payment Control, PO Box 8007, Little Rock, AR 72203.

If a person does not think his overpayment is past due or legally enforceable, what can that person do? – Ask ADWS to review the determination that the specific overpayment is past due and legally enforceable by sending a written request to: Division of Workforce Services, Benefit Payment Control, PO Box 8007, Little Rock, AR 72203. This must be done by March 19, 2023.

What if DWS takes more income tax refund than is needed to pay off an overpayment debt? – ADWS periodically updates the status of all debts, including changes in balances and legal statuses, to TOP. In the event ADWS does receive more than is necessary to pay off an overpayment debt, ADWS will promptly refund that amount once it is received.

Will ADWS take both state and federal income tax refunds? – Yes if the overpayment debt qualifies for both.

Which does ADWS take first? – Whichever one is received by ADWS first is applied to the account first.

What happens if ADWS takes both but that is more than is owed? – ADWS updates the balance of all debts to TOP and DF&A.

However due to the timing of filing and processing of tax returns, ADWS may not be able to update the balance of any particular account in time to prevent TOP or DF&A from sending too much of someone's refunds. In the event ADWS does receive more than is necessary to pay off an overpayment debt, ADWS will promptly refund the excess amount ADWS receives.

If a person files a joint federal tax return; how can a spouse get his/her portion of the tax refund? – Obtain Form 8379, Injured Spouse Claim and Allocation, before filing the tax return. The instructions will explain the steps the spouse may take to obtain his or her share of the joint income tax refund.