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Title IV-D Child Support Enforcement Actions

Sec. 52-362e-1. Definitions

All definitions in section 52-362d-1 of the Regulations of Connecticut State Agencies shall apply to sections 52-362e-1 through 52-362e-3, except as otherwise indicated in this section. As used in sections 52-362e-1 through 52-362e-3:

(a) “DAS” means the Connecticut Department of Administrative Services; the agency authorized to transmit the Department’s requests for the withholding of state income tax refunds to the Connecticut Department of Revenue Services.

(b) “Defense” means those described in subdivision (1) of section 52-362d-1 of the Regulations of Connecticut State Agencies in addition to, but not limited to, the following:

(1) the persons for whom BCSE is collecting child support did not legally assign their support rights to the state or apply for IV-D services;

(2) the child support debt assigned to the state was discharged by a U.S. bankruptcy court at a time when federal law allowed for such debt to be discharged in bankruptcy; and

(3) the defense created by section 52-362h of the Connecticut General Statutes.

(c) “Distribution” means the allocation and payment of child support collections to individuals and/or the State of Connecticut.

(d) “IRS” means the U.S. Internal Revenue Service.

(e) “Qualified child” means a child who is a minor as of December 31 of the year in which the case is submitted for the withholding of a federal income tax refund or one who, while a minor, was determined to be disabled under title II or XVI of the Social Security Act, and for whom a support order is in effect.

(f) “OCSE” means the Office of Child Support Enforcement within the U.S. Department of Health and Human Services; the agency authorized to transmit state IV-D agency requests for the withholding of federal income tax refunds to the IRS.

(Effective June 1, 1993; amended June 8, 1988)

Sec. 52-362e-2. Withholding of federal income tax refunds

(a) When appropriate

The withholding of an obligor’s federal income tax refund for the collection of past-due support is appropriate provided, in IV-D assistance cases, the criteria of subdivisions (1) and (2) of this subsection are met, and, in IV-D non-assistance cases, the criteria of subdivisions (1) and (3) of this subsection are met.

(1) General criteria

The following criteria shall be met in all cases submitted to OCSE for withholding:

(A) A notice of action shall be mailed to the obligor prior to submittal.

(B) The obligor shall be given an opportunity for a fair hearing prior to submittal.

(C) BCSE or a cooperating agency shall have in its records a payment record and a copy of the support order and any modifications upon which the amount submitted for withholding is based which documents specify the date of issuance and the amount of support.

(D) Before submittal, BCSE or a cooperating agency shall verify the accuracy of the name and social security number of the obligor and the accuracy of the past-due support amount; provided, if such information was verified previously, it need not be reverified.

(2) Criteria for assistance cases

The following criteria shall be met in assistance cases submitted to OCSE for withholding:

(A) The combined amount of past-due support for all accounts shall be at least \$150.00, regardless of the status of payments on any court-ordered pay plan to reduce such past-due support.

(B) The support shall be past-due for three months or longer.

(3) Criteria for non-assistance cases

The following criteria shall be met in non-assistance cases submitted to OCSE for withholding:

(A) The support shall be owed to or on behalf of a qualified child, or a qualified child and the parent with whom the child is living if the same support order includes support for the child and the parent.

(B) The combined amount of past-due support for all accounts shall be at least \$500.00, regardless of the status of payments on any court-ordered pay plan to reduce such past-due support.

(C) BCSE or a cooperating agency shall have in its record the custodial party's current address.

(D) If an assistance arrearage exists with respect to the non-assistance individual or family, such arrearage shall be submitted for withholding if the criteria in subdivision (2) of this subsection are met.

(b) **Procedure**

(1) Notice of action

At least three months prior to final submittal to OCSE, the department shall mail a notice of action to all obligors identified for potential withholding.

(2) Prehearing review

The obligor's name shall not be submitted for IRS withholding if the results of a prehearing review indicate that the case is not appropriate for such action.

(3) Fair hearing

(A) Intrastate cases

If a fair hearing is not requested, the obligor's name shall be submitted for IRS withholding no earlier than three months after the mailing date of the notice of action. If a fair hearing is requested, submittal shall not be made unless the fair hearing is denied or dismissed, or a decision which upholds the proposed withholding is rendered prior to the department's submittal to OCSE.

(B) Interstate cases

In interstate cases where the obligor resides in another state, the obligor may request a fair hearing from this state or from the state with the order upon which the referral for withholding is based. Requests for a hearing from the state with the order must be made through this state.

(4) Submittal to OCSE

The department shall submit to OCSE no later than the deadline specified in OCSE program instructions the names of all obligors whose cases are appropriate for submittal. The submittal to OCSE shall be accompanied by a certification of the director of BCSE and all other information required by OCSE.

(5) Distribution of withheld amounts

(A) Payment to state

Amounts withheld shall be applied first to satisfy past-due support assigned to the state and certified for withholding.

(B) Payment to family

Any excess after payment to the state shall be applied to satisfy past-due support certified for withholding and owed to the non-assistance family. A fee of \$15.00 for each name certified in non-assistance cases shall be deducted from such excess

prior to distribution to the family, provided there is a successful withholding. The custodial party shall be obligated to repay the state for any withheld amounts received that are subsequently found to be erroneous, in excess of the amount owed at time of distribution, or refunded by the IRS to a non-obligated spouse in cases where the withholding is based on a joint return.

(C) Refund to obligor

If the amount withheld is in excess of the amount owed at time of distribution, the excess shall be refunded to the obligor, or jointly to the parties filing a joint return.

(D) Special rule for joint returns

If withholding is made to satisfy non-assistance past-due support from a refund based on a joint return, the department may delay distribution until notified that the non-obligated spouse's proper share of the refund has been paid or for a period not to exceed six months from notification of withholding, whichever is earlier.

(Effective November 28, 1994; amended June 8, 1998)

Sec. 52-362e-3. Withholding of state income tax refunds

(a) **When appropriate**

The withholding of an obligor's state income tax refund for the collection of past-due support is appropriate provided, in IV-D assistance cases, the criteria of subdivisions (1) and (2) of this subsection are met, and, in IV-D non-assistance cases, the criteria of subdivisions (1) and (3) of this subsection are met.

(1) General criteria

The following criteria shall be met in all cases submitted to DAS for the withholding of a state income tax refund:

(A) A notice of action shall be mailed to the obligor prior to submittal.

(B) The obligor shall be given an opportunity for a fair hearing prior to submittal.

(C) Before submittal, BCSE or a cooperating agency shall verify the accuracy of the past-due support amount; provided, if such information was verified previously, it need not be reverified.

(2) Criterion for assistance cases

The combined amount of past-due support for all accounts shall be at least \$150.00 in assistance cases submitted to DAS for the withholding of a state income tax refund.

(3) Criterion for non-assistance cases

The combined amount of past-due support for all accounts shall be at least \$500.00 in non-assistance cases submitted to DAS for the withholding of a state income tax refund.

(b) **Procedure**

(1) Notice of action

At least sixty days prior to submittal to DAS, the department shall mail a notice of action to all obligors identified for potential withholding.

(2) Prehearing review

The obligor's name shall not be submitted to DAS if the results of a prehearing review indicate that the case is not appropriate for such action.

(3) Fair hearing

If a fair hearing is requested, submittal shall not be made unless the fair hearing is denied or dismissed, or a decision which upholds the proposed withholding is rendered prior to the department's submittal to DAS.

(4) Submittal to DAS

Subject to subdivisions (2) and (3) of this subsection, the obligor's name shall be submitted to DAS no earlier than sixty days after the mailing date of the notice

of action. The department shall submit to DAS the names of all obligors whose cases are appropriate for submittal.

(5) Submittal updates

Following the initial submittal, the department shall submit to DAS periodic updates of the amount of past-due support owed by those obligors whose names were submitted for withholding.

(6) Distribution of withheld amounts

(A) In general

Withheld amounts shall be distributed in accordance with subsection (c) of Section 52-362e of the Connecticut General Statutes and applicable federal law and regulations.

(B) Repayment by custodial party

The custodial party shall be obligated to repay the state for any withheld amounts received that are subsequently found to be erroneous, in excess of the amount owed at time of distribution, or refunded by the Department of Revenue Services to a non-obligated spouse in cases where the withholding is based on a joint return.

(C) Refund to obligor

If the amount withheld is in excess of the amount owed at time of distribution, the excess shall be refunded to the obligor, or jointly to the parties filing a joint return.

(D) Special rule for joint returns

If withholding is made to satisfy non-assistance past-due support from a refund based on a joint return, the department may delay distribution until notified that the non-obligated spouse's proper share of the refund has been paid or for a period not to exceed six months from notification of withholding, whichever is earlier.

(Effective November 28, 1994; amended June 8, 1998)