

**MEMORANDUM OF UNDERSTANDING FOR
USE OF THE OFFSET SYSTEM WITHIN THE
STATEWIDE ACCOUNTING SYSTEM
BETWEEN THE MONTANA DEPARTMENT OF REVENUE AND
AGENCY**

I. PURPOSE

The Montana Department of Revenue (Department) and the AGENCY (Agency) enter into this Memorandum of Understanding (MOU) for the purpose of establishing a service agreement for use of the SABHRS Offset System (Offset System) in accordance with the Montana Operations Manual and the Memorandum of Understanding between the Department of Revenue and the Department of Administration establishing the Department of Revenue as the process owner of the Offset System.

II. AGENCY'S RESPONSIBILITIES

- A. The Agency shall not enter any unliquidated debts into the Offset System. An unliquidated debt is a debt where the amount is unassessed, unsettled, or disputed.
- B. The Agency must have followed its internal policies and procedures, as well as any applicable laws regarding debtor notification and dispute resolution, for any submitted debts.
- C. The Agency shall not submit any debts where the age of the debt exceeds the applicable statute of limitations.
- D. The Agency shall provide a valid social security number or other federal identification number for each debtor.
- E. Upon the Department's request, the Agency shall provide the Department with all relevant evidence or other information regarding the debt.
- F. The Agency shall maintain continuous review of debts in the Offset System to confirm that each debt remains valid for collections. The Agency shall promptly remove any uncollectible debt from the Offset System. An uncollectible debt includes any debt that does not meet the criteria for originally placing the debt in the Offset System.
- G. The Agency shall promptly modify the debt in the Offset System if the Agency receives a payment or there is an adjustment to the principal, interest, or penalties that is not based on the Department's collection services.
- H. The Agency shall refund any overpayment to the debtor.

- I. Upon the Agency receiving notification that a debtor filed for bankruptcy, the Agency shall promptly remove the debt from the Offset System.
- J. The Agency shall complete a debt code requirement form and it shall be reviewed annually. Addendum attached.

III. DEPARTMENT'S DEBT COLLECTION SERVICES

- A. The Department will seize payments due the debtor within the Offset System for potential offset of the debt.
- B. The Department shall notify the debtor when it identifies funds that may be seized. The notice must identify the debt and the funds held, state that the department will hold the funds for 30 days pending receipt of a hearing request, and inform the debtor of the right to request a hearing on the funds seizure.
- C. The Department shall apply seized funds to the debtor's outstanding accounts according to its approved hierarchy.
- D. The Department will provide the debtor with an opportunity for a hearing to address only whether the seized funds could be used to offset the debt. The Department will not address any challenges to the validity of the underlying debt. If such a challenge is raised, the Department will notify the Agency so that it can address that issue.
- E. The Department will not calculate interest and/or penalties on debts submitted for offset.
- F. The Department shall charge the Agency a percentage of seized proceeds for the cost of assistance. The current service fee is five percent. This percentage is subject to change. The Department shall notify the Agency of any change to this fee. The Department shall deduct its service fee from amounts collected and then remit the balance to the Agency.
- G. In the event of cancelled/closed warrants or ACH returns, the Department shall notify the Agency. The Agency shall return any funds due the Department and modify the debt in the Offset System.
- H. Upon the Department receiving notification that a debtor filed for bankruptcy, the Department shall inactivate the debtor in the Offset System. The Department will not file a proof of claim in bankruptcy proceedings on the Agency's behalf.

IV. OTHER TERMS

- A. The Department agrees to protect the confidentiality of any information obtained from the Agency in accordance with applicable state and federal laws. The Department agrees to apply the same safeguard protection standards to any information obtained from the Agency that the Department applies to all federal and state tax information.
- B. Consistent with the state of Montana retention schedules and public records laws, the Department agrees to destroy any printed information received from the Agency by shredding said information after the use for which the data was requested has expired.
- C. This MOU is governed by the laws of the state of Montana. The parties agree that any litigation concerning this MOU must be brought in the First Judicial District Court in Lewis and Clark County, Montana. Each party shall bear its own costs, fees, and expenses, including attorney fees, stemming from a dispute arising from or regarding this MOU, and each releases the other, its attorneys, employees, agents, and assigns from any liability for such costs, fees, and expenses and from any damages, known or unknown, liquidated or unliquidated, arising in any manner from the dispute.
- D. The terms of this MOU are mutually dependent and non-severable. If any court or other binding legal authority declares that any provision is illegal or void, the MOU is not effective for any purpose.
- E. This MOU will remain in effect unless terminated by either party, with or without cause, upon ten (10) days written notice to the other party.

V. APPROVALS

Montana Department of Revenue

(AGENCY)_____
Mike Kadas, Director_____
AGENT, TITLE

This ____ day of _____, 2013.

This ____ day of _____, 2013.

Approved for legal content:

Approved for legal content:

Montana Department of Revenue_____
(AGENCY)