

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

GARY N TRUE
Claimant

APPEAL NO. 10A-UI-02435-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Original Claim: 05/17/92
Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayment
871 IAC 25.16 – Income Tax Offset

STATEMENT OF THE CASE:

The claimant's spouse appealed from a department representative's decision dated February 8, 2010, reference 01, that held her state tax refund is being withheld to repay a benefit overpayment. A telephone hearing was scheduled for March 27, 2010. The claimant did not participate.

ISSUE:

Whether claimant's state refund may be offset to repay a benefit overpayment.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds that: The department record shows the claimant has had an outstanding overpayment of benefit for many years, and the department has been collecting payments by income tax offset. Most recently, the department withheld the claimant's state tax refund of \$334.00 to apply as an offset/payment against the overpayment that reduces it to \$1,526.00. Although the claimant's spouse is appealing the department offset action, the record is not clear whether she requested the Payment Control Center to proportionately divide any joint tax refund.

The claimant did not respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 25.16(3) provides:

State payment offset. An individual who is owed a payment from the state of at least \$50 and owes an overpayment of benefits of at least \$50 is subject to an offset against the individual's payment from the state to recover all or a part of the individual's overpayment of benefits and to reimburse the department of revenue and finance for administrative costs to execute the offset. All overpayments, whether fraud or nonfraud, are included in this process.

(3) In the case of a joint income tax filing, the individual has ten days from the postmark date on the decision to request a split of the refund to ensure the other party's portion of the refund is not offset. When a request is made, the department notifies the department of revenue and finance to make the split. The department then notifies the overpaid individual of the amount of the offset. If the request for the split of the refund is not made timely, the entire income tax refund becomes subject to offset.

The administrative law judge concludes that the department is authorized to offset claimant's Iowa State Tax refund to repay the overpayment.

DECISION:

The decision of the representative dated February 8, 2010, reference 01, is affirmed. The department is authorized to offset claimant's state tax refund.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw