

CONTACT: Jennifer Mezey, 202-661-5962
jmezey@legalaiddc.org

Social Security Administration Releases Emergency Message Pledging to Curtail Confiscation of Income Tax Refunds

Facing federal class action lawsuits, the Social Security Administration released a statement on Friday, May 12, 2017, that it will no longer attempt to confiscate taxpayers' income tax refunds to collect certain decades-old alleged debts. The statement also suggests that tens of millions of dollars of refunds may be made available in the future to individuals whose tax refunds were previously seized through this practice.

WASHINGTON, May 15, 2017 – The Social Security Administration [announced](#) last Friday that it will no longer use the “Tax Offset Program” (TOP) to confiscate income tax returns to repay certain alleged debts incurred before 2002. The announcement also signals that taxpayers whose refunds were taken should be eligible for reimbursement with more specific instruction regarding such possible compensation to follow.

The announcement comes as the Legal Aid Society of the District of Columbia and the law firm of Alston & Bird LLP continue to litigate a [federal putative class-action lawsuit](#) challenging the practice that the Social Security Administration has just terminated. That case—filed on behalf of District of Columbia residents Tina Heard, Pearline Snow, and Carolyn Graham, and others similarly situated—remains pending in the U.S. Court of Appeals for the District of Columbia Circuit.

The plaintiffs claim that their tax refunds were unlawfully seized, that this confiscation occurred with no notice, explanation, or evidence of indebtedness, and that they were provided with no adequate means to challenge that seizure, all in violation of various federal laws as well as due process requirements under the U.S. Constitution. Another case alleging similar claims was filed in the U.S. District Court for the District of Maryland and is currently pending before the U.S. Court of Appeals for the Fourth Circuit.

The Social Security Administration’s announcement states that it will no longer use the Tax Offset Program to attempt to collect alleged overpayments that became delinquent before May 19, 2002. Additionally, the announcement indicates that there will, in the future, be a procedure to request refunds of TOP collections already made.

While the announcement is a welcome response to the ongoing litigation, it does not fully address the issues raised by Legal Aid’s lawsuit. The to-be-announced refund process, which could affect roughly 65,000 Americans who have had their tax refunds seized under the challenged practice, remains contingent and uncertain. And even after this announcement, the

Social Security Administration's policy is to attempt to collect overpayments, including overpayments that became delinquent decades ago, through all possible means other than through the Tax Offset Program. The Social Security Administration will continue to be able to pursue such collections even if it lacks sufficient evidence to demonstrate that the alleged overpayment actually happened.

"This is a great first step, but we have a long way to go," said Chinh Q. Le, Legal Director at the Legal Aid Society of the District of Columbia. "This stops one unfair practice by the Social Security Administration, but it only promises compensation at some undefined point in the future and does not address many other practices we alleged are unlawful."

Legal Aid urges individuals who believe that their tax refunds were seized based on an alleged Social Security overpayment that became delinquent before May 19, 2002, or who have been asked to repay an alleged overpayment that the Social Security Administration cannot document, to pay close attention to these developments and seek out legal assistance if necessary. Residents of the District of Columbia are encouraged to contact Legal Aid.

###

The Legal Aid Society of the District of Columbia was formed in 1932 to "provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs." For more than 80 years, Legal Aid has been *making justice real* – in individual and systemic ways – for persons living in poverty in the District. Since its founding, Legal Aid has served tens of thousands of the District's neediest residents. Last year, more than 4,000 individuals came to one of Legal Aid's offices for an initial interview seeking assistance with their legal needs. Legal Aid currently serves individuals and families living in poverty in four priority areas – public benefits, consumer, family/domestic violence, and housing law. It also litigates appellate matters through its nationally-recognized Barbara McDowell Appellate Advocacy Project. To find out more about Legal Aid, please visit its website at www.legalaiddc.org.