

**Memorandum of Understanding**  
**Between Office of State Courts Administrator and**  
**the Columbia Municipal Division of Boone County of the**  
**Thirteenth Judicial Circuit**  
**A Court Using the Approved Statewide Case Management System**

**I. PARTIES**

This document constitutes an AGREEMENT between the Office of State Courts Administrator (OSCA) and Columbia Municipal Division of Boone County of the Thirteenth Judicial Circuit (Court) for the purpose set out hereunder:

**II. PURPOSE:**

The purpose of the agreement is to establish guidelines for participation in the debt collection and tax offset programs and to identify the responsibilities of the respective parties.

**III. BACKGROUND AND PURPOSE**

Section 488.5030, RSMo authorizes the courts to contract with private providers of collection agency services to collect past-due court-ordered penalties, fines, restitution, sanctions, court costs, including restitution and juvenile monetary assessments, or judgments to the state of Missouri or one of its political subdivisions and allows the costs of collections to be added to the amount due, not to exceed twenty percent of the amount collected. OSCA, on behalf on the Judiciary, has signed a contract with a third party vendor (Contractor) to provide debt collection services to the courts.

Court Operating Rule 21.07 requires participation in the debt collection program by all divisions of the circuit court using the approved statewide case management system (CMS) for the collection of accounts receivable. Municipal divisions using the CMS must participate in the debt collection program within six (6) months of implementation of the CMS.

Section 488.5028, RSMo, allows courts to participate in the Missouri Department of Revenue's (DOR) tax offset program. If a person fails to pay court cost, fines, fees or other sums ordered to be paid to the state or political subdivision, a court may report any such debt in excess of \$25.00 to OSCA. OSCA will seek as setoff of the individual's Missouri income tax refund.

Court Operating Rule 21.06 requires participation in the tax offset program by all divisions of the circuit court using the CMS for the collection of accounts receivable. Municipal divisions using the CMS must participate in the tax offset program within six (6) months of implementation of the CMS.

**IV. DEBT COLLECTION PROGRAM**

**A. CRITERIA FOR PARTICIPATION IN DEBT COLLECTION**

1. The Court must utilize the approved CMS.
2. The Court must accept the standard notices and processes as jointly developed by the Contractor, OSCA, and the courts.
3. The Court must have a bank account that has the capability of electronically receiving the collections from Contractor. The Court shall provide the necessary bank account

information to the Contractor for the transfer and shall keep the Contractor and OSCA informed of any bank account changes.

## B. DEFINITIONS

1. **DEBT:** Court-ordered penalties, fines, restitution, sanctions, court costs, including restitution and juvenile monetary assessments, or judgments to the state of Missouri or one of its political subdivisions that have not been paid.
  - a. The debt shall be in excess of \$5.00.
  - b. The debt shall be considered delinquent when there is a balance due sixty days past the due date of the final payment.
  - c. The debt should be turned over to the Contractor for collection within the following parameters:
    - Unpaid restitution shall only be referred and collected while the defendant is on probation if the prosecutor is not collecting restitution. The court in Grossoehme v. Cordell, 904 S.W.2<sup>nd</sup> 392 (Mo.App. 1995), held that the jurisdiction of the court did not extend beyond the period of probation.
    - Unpaid costs in civil cases shall be referred and collected within ten years from final judgment, unless the judgment has been revived. The statute of limitations for civil judgments is ten years.
    - All unpaid costs in criminal cases may be referred as there is no statute of limitations in criminal cases for the nonpayment of fines and costs.
2. **DEBT COLLECTION EXTRACT PROCESS:** The extract process will identify and refer eligible cases to the Contractor that meet the established criteria through an automated process.
3. **DEBT COLLECTION ADJUSTMENT PROCESS:** The adjustment process will identify and send to the Contractor the following information on referred cases: adjustments in balance due to receipts from tax offset, from Department of Corrections for Crime Victim's Compensation Judgments or from the Contractor for debt collection.
4. **DEBT COLLECTION RECALL, HOLD AND RESUME PROCESS:** The process of reporting the following activities to Contractor are 1) accounts placed on collection hold status, 2) adjustments on accounts on hold, 3) accounts recalled from collection and 4) reinstatements after recall.
5. **EXEMPT:** A case that has unpaid costs and fines and the Court has determined that such case shall not be referred to the Contractor for collection.
6. **HOLD:** To temporarily suspend collection on the debt held by the Contractor. The Court may place a debt on hold only if the Court has been asked by the debtor for a determination of indigency, or has contested the validity of the debt, or the Court on its own action, may place a debt on hold only to adjust the balance if the amount reported to the Contractor was incorrect. The Court shall release the hold when appropriate.
7. **RECALL:** To withdraw the debt from collection by the Contractor. The Court may recall a debt only if the costs were incorrectly reported to the Contractor or the debtor is declared indigent and allowed to serve jail time or community service work in lieu of

costs, debtor is declared indigent and costs are waived, the debtor has filed for bankruptcy, or by other order of the court. The Contractor will retain their percentage for collection of any costs or fees collected prior to the recall of the account.

8. **REFERRED:** A case in which the Contractor is actively pursuing collection activity; not on hold or recalled.

## C. RESPONSIBILITIES OF THE PARTIES

### 1. OSCA shall:

- a. Work cooperatively with the Contractor to develop and maintain the debt collection interface to submit and receive data electronically.
- b. Develop the program to extract data from the CMS that meets the established criteria.
- c. Provide procedures for any and all enhancements to the CMS.
- d. Act as liaison with the Contractor for the courts.
- e. Assure that Contractor meets its contractual obligations for Debt Collection Services.
- f. Be the point of contact regarding questions concerning the debt collection contract.

### 2. Court shall:

- a. Establish a contact person for the Debt Collection Program and inform OSCA with their contact information.
- b. Use the payment plan option in the CMS to submit cases for debt collection. If the Court needs to exclude a case from the electronic file, the Court must mark the case “exempt” from collection prior to the meeting the definition of debt in section III.
- c. Retains the option to recall a debt or to place a debt on hold.
- d. Receipt the money into the CMS to the appropriate cases and appropriate costs upon receipt of the funds collected by Contractor
- e. Follow the process and procedures as set forth in the Court Clerk Handbooks and GOLD for assessing costs, creating payment plans and receipting payments.
- f. Not receipt payments that would result in the debt being reduced once a case has been referred for collection. Payments receipted from sources noted in subsections i-iii below shall result in an adjustment to the balance due through the debt collection adjustment process on the case except for:
  - i. funds collected by the tax offset program,
  - ii. cash only bonds for warrants issued prior to the court’s participation in the debt collection program,
  - iii. Crime Victim’s Compensation Judgments collected by the Missouri Department of Correction or
  - iv. funds collected by debt collection.
- g. “Recall” the case if the debt is satisfied in full or put the case on “hold” to adjust the balance due if the court orders that the debtor be given a credit in whole or in part against the balance due.

- h. Forward all other payments not included in section f above to the Contractor to process and to deduct their collection fee or shall refer the debtor to Contractor for payment processing. The Court understands the balance due of a referred case should not change as the result of any Court actions, including direct payment by the debtor to the referring Court.
- i. Withdraw any outstanding warrants if all other conditions of the warrant have been satisfied if a warrant has been issued for non-payment of court costs and the amount of funds collected by the Contractor satisfies the outstanding balance.
- j. Issue a compliance letter if a license suspension has been issued for failure to pay fines and costs and the amount of funds collected by the Contractor satisfies the outstanding balance.
- k. Authorize the Contractor to pursue collection against an estate of a deceased debtor if the Court shall desire such action.
- l. Answer all questions regarding the debt.
- m. Refer all questions from debtors concerning the Contractor account status to the Contractor as directed by the Contractor.
- n. Contact the Contractor as directed for Court questions concerning the Contractor account status.

## **V. TAX OFFSET PROGRAM**

### **A. CRITERIA FOR PARTICIPATION IN THE TAX OFFSET PROGRAM**

- 1. The Court must utilize the approved CMS.
- 2. The debt, which is defined as court costs, fines, fees and other sums ordered to be paid to the state or political subdivision, shall be in excess of \$25.00.
- 3. The individual's Social Security Number is required.
- 4. The debt shall be considered delinquent if any scheduled payment or part of a payment is thirty days past the scheduled due date on the payment plan.
- 5. Debts shall be submitted to DOR on each individual case and shall not be combined together with other debts owed on different cases by the same individual.
- 6. The individual has a right to request a court review of the fines and costs on the case for which the tax offset was applied.
- 7. The individual's spouse has a right to request an apportionment of the tax offset.
- 8. The Court must have a bank account that has the capability of electronically receiving the debt offsets from OSCA and the Court shall provide the necessary bank account information to OSCA for the transfer and shall keep OSCA informed of any bank account changes.

### **B. RESPONSIBILITIES OF THE PARTIES**

- 1. OSCA shall:
  - a. Develop the interface to submit and receive data electronically from DOR.

- b. Develop the program to extract data from CMS that meets the established criteria.
  - c. Prepare weekly an electronic file containing cases meeting the criteria for the Program and send it to DOR.
  - d. Receive each week from DOR.
    - i. The list of those individuals whose tax refunds have been intercepted.
    - ii. Notice of Tax Intercept letters that are printed and ready for mailing.
    - iii. The Name Control Error (SSN mismatch) report which includes individuals whose name and/or SSN does not match DOR records.
  - e. Forward the Name Control error report to the Court electronically.
  - f. Forward copies of the intercept notices to the Court electronically.
  - g. Mail the original notices of tax intercept to the individuals and their spouses.
  - h. Hold the intercepted funds in an escrow account for forty-five (45) days if the individual does not request a review of the offset and there has not been a request for spousal apportionment. After the deadline, OSCA shall transfer the funds to the Court.
  - i. Hold the funds in an escrow account until the Court notifies OSCA the outcome of the review of the offset if the individual requests a review and there has not been a request for spousal apportionment. If a refund is due the individual, OSCA shall process the individual's refund within fifteen (15) days of receipt of the court's notice. If funds are due the court and forty-five (45) days have elapsed, OSCA shall electronically transmit the funds to the Court.
  - j. Immediately forward a request for spousal apportionment to DOR if such a request has been made. OSCA shall hold the intercepted funds in the escrow account until DOR notifies OSCA of the amount of the spousal apportionment. Within fifteen (15) days from notification from DOR the funds are due the spouse, OSCA shall release the spouse's apportionment of the refund to the spouse. After forty-five (45) days have elapsed, OSCA shall electronically transfer the remainder of the funds to the Court if a request for review has not been filed.
  - k. Refer questions relating to spousal apportionment to DOR.
  - l. Prepare informational materials for the Court to distribute.
2. Court shall:
- a. Establish a contact person for the program. The contact or designee shall be responsible for receiving and reviewing all electronic notices weekly.
  - b. Use the payment plan option in CMS in order to submit cases for tax offset. If the court needs to exclude a case from the electronic file, the court shall mark the payment plan inactive.
  - c. Review the Name Control Error report within in three (3) days of receipt of the report and advise OSCA whether the individual's refund should be intercepted or released. The court shall update their record as needed.
  - d. Immediately notify OSCA if an application for review has been received by the court in order for OSCA to put the intercepted funds on hold.

- e. Review the application for review within fifteen (15) calendar days of receipt and notify OSCA of the outcome. The court shall update their records as needed.
- f. Receipt the intercepted funds into the CMS to the appropriate cases and appropriate costs after the funds are transferred to the Court's bank account.
- g. Withdraw any outstanding warrants if all other conditions of the warrant have been satisfied when a warrant has been issued for non-payment of court costs and the amount of funds intercepted satisfies the outstanding balance.
- h. Answer questions regarding the debt and shall refer questions to OSCA only if the question relates to the spousal apportionment of if the court finding on an application for review was forwarded to OSCA at least thirty (30) days prior to the inquiry.

**C. CONFIDENTIALITY**

All tax related information is confidential. Section 32.057, RSMo, prohibits the unlawful disclosure of tax information filed with DOR. Court staff designated to receive tax notices, must sign an oath of confidentiality prior to participation in the Program and shall not unlawfully disclose tax information. The Court shall notify OSCA of all changes made to the staff that are designated to receive tax notices.

**VI. AGREEMENT**

This agreement shall be effective \_\_\_\_\_, 2021.

In witness whereof the undersigned have executed this Memorandum of Understanding:

\_\_\_\_\_  
Earl Kraus  
Deputy State Courts Administrator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Appointing Authority

\_\_\_\_\_  
Date

\_\_\_\_\_  
Honorable J. Brouck Jacobs  
Presiding Judge Thirteenth  
Judicial Circuit

\_\_\_\_\_  
Date

Approved as to form:

\_\_\_\_\_  
City Counselor