



STATE OF ARKANSAS  
ATTORNEY GENERAL  
LESLIE RUTLEDGE

Opinion No. 2021-081

January 14, 2022

The Honorable Les Eaves  
State Representative  
102 Club Cove  
Searcy, AR 72143-7440

Dear Representative Eaves:

This is in response to your request for an opinion concerning drivers' license reinstatement fees. As background for your questions, you note that drivers in Arkansas may have their drivers' licenses suspended for various reasons by statute, and you cite Ark. Code Ann. §§ 5-65-119, 27-16-508, and 27-16-808 regarding reinstatement fees associated with license suspensions and revocations. You further note that the Department of Finance and Administration [DFA] is authorized to collect a reinstatement fee before issuing a new license, and you state the following:

Recently, drivers have been receiving "Set-Off Debt Collection" notices from Driver Control, stating that because they owe a debt to DFA their state income tax refund may be garnished to satisfy the debt. The notice states:

Please be advised, you have unpaid reinstatement fee(s) assessed under Arkansas [laws]. Pursuant [sic] Arkansas Code Annotated § 26-36-301 states [sic] if you have a pending claim for a refund with the Revenue Division of the Department of Finance and Administration, it is the intention of this agency to apply the refund to the debt you owe this agency.

\* \* \*

Any state income tax refund due to you from the State of Arkansas may be retained in full or partial satisfaction of this debt unless the amount is paid in full within thirty (30) days of this invoice.

Against this background, you ask:

1. Is a drivers' license reinstatement fee a debt to the State of Arkansas?
2. If a reinstatement fee is not a debt to the State of Arkansas, can DFA retain (garnish) a taxpayer's income tax refund for payment of that fee?

## **RESPONSE**

The answer to your first question is “yes” regarding the fees imposed under Ark. Code Ann. §§ 5-65-119 (Supp. 2021), 27-16-508 (Supp. 2021), and 27-16-808 (Supp. 2021). A response to your second question appears unnecessary in light of this response.

## **DISCUSSION**

***Question 1: Is a drivers' license reinstatement fee a debt to the State of Arkansas?***

This question requires reference to the provisions for setoffs against state income tax refunds found at Ark. Code Ann. §§ 26-36-301 *et seq.* (Repl. 2020 and Supp. 2021). This body of law, in relevant part, establishes general procedures for “the withholding of part or all of income tax refunds due individuals who owe debts to the State of Arkansas...”<sup>1</sup> The procedures include submission of claims by “claimant agencies” seeking collection of such “debts.”<sup>2</sup>

Specific to your question, “claimant agency” is defined to include “[t]he Office of Driver Services.”<sup>3</sup> And “debt,” in pertinent part, means:

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<sup>1</sup> Ark. Code Ann. § 26-36-305 (Repl. 2020).

<sup>2</sup> *Id.* at § 26-36-307.

<sup>3</sup> *Id.* at § 26-36-303(1)(A)(xviii) (Supp. 2021).

All of the following that are not under appeal:

\* \* \*

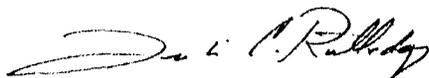
(iii) Fees for reinstatement of a driver's license payable to the Office of Driver Services under §§ 5-65-119, 27-16-508, and 27-16-808.

In response to your question, therefore, the reinstatement fees under Ark. Code Ann. §§ 5-65-119, 27-16-508, and 27-16-808 are plainly debts that are owed to the State of Arkansas, i.e., the Office of Driver Services at DFA, pursuant to the above provisions for setoff against state income tax refunds. The answer to your first question is, therefore, "yes" regarding the fees imposed under those Code sections.

***Question 2: If a reinstatement fee is not a debt to the State of Arkansas, can DFA retain (garnish) a taxpayer's income tax refund for payment of that fee?***

A response to this second question appears unnecessary in light of my response to Question 1.

Sincerely,



LESLIE RUTLEDGE  
Attorney General