

Title 4: Auditor

Part 5: State Assessments

Part 5 Chapter 1: Administrative Procedure Regulating Procedure for Settlement and Refund State Imposed Assessments

Rule 1.1 Definitions.

- (1) **Assessments** - The term assessments shall include all court imposed fees, fines, or other amounts imposed upon a defendant or other person responsible for such costs in municipal or county courts; which are required by state law to be collected by the court and settled to a state agency. These include, but not limited to, amounts to be collected for settlement to the state and classified as State Uniform Assessment (Section 99-19-73), State Court Constituents Assessment (Section 37-26-9), Crime Stoppers Assessments (Section 45-39-17), State Appearance Bond Fees (Section 83-39-31), State Game and Fish License Assessments (Section 49-7-21), State Criminal Justice fund Assessments (Section 97-19-67), Domestic Violence Fee (Section 25-7-13), Drivers License Reinstatement Fee (Section 63-11-30), Drug Abuse Drivers License Reinstatement Fees (Section 63-1-71), Highway Patrol and Local Citation Assessment (Section 63-9-31), Adult Drivers Training Fee (Section 63-9-11), State Court Education Assessment (Section 37-26-3) and Compulsory Motor Vehicle liability Insurance Fines (Section 63-15-4).
- (2) **State Agency** - This term shall include, but not be limited to, the Department of Finance and Administration and the Mississippi Department of Public Safety.

Source: *Miss. Code Ann.* §§ 7-7-211, 25-7-13, 37-26-3, 37-26-9, 45-39-17, 49-7-21, 63-1-71, 63-9-11, 63-9-31, 63-11-30, 63-15-4, 83-39-31, 97-19-67, 99-19-73.

Rule 1.2 Collection of Assessments.

- (a) **Who Collects Assessments** - Only the clerk of the court or authorized deputy court clerk may receipt an assessment collection.
- (b) **How Assessments are Collected** -
 - (1) Cash
 - (2) Check from a Miss. resident paying a Title 63 Ch. 3, 5, or 7 traffic violation (required by Section 63-9-12). Court Clerks are not responsible for bad checks received in payment of these types of violations if a reasonable collection effort is made.
 - (3) **Other Check, Money Order, etc.**
 - (i) Clerk is responsible for bad collections, accepted at personal risk.
 - (ii) If a bad check is received, Sec. 97-19-57 explains the procedure for notification to the defendant that a check has been dishonored and to authorize the service charge.
 - (4) **Working Assessments Off** may be authorized by the court, Sec. 47-1-47 & Sec. 99-19-20 (A.G. Priscilla Daniels 10/3/90). The county does not reimburse the state for the loss. (The county also does not pay the constable for his loss A. G. Opinion Sue Gann, 9/11/91).

Source: *Miss. Code Ann.* §§ 7-7-211, 47-1-47, 63-9-12, 99-19-20.

Rule 1.3 Partial Collections.

- (a) Partial payments are classified as assessments based on judges “order of collection policy” (A. G. 9/25/86). However, Section 25-7-27(2) requires constables to be paid from first collections.
- (b) Partial collections must be settled monthly.

Source: *Miss. Code Ann.* § 7-7-211.

Rule 1.4 Accounting for Assessments.

- (a) Receipts, as required by state law, must be issued to support each collection.
- (b) Settlement of collections must be made (daily) Section 25-1-72.
- (c) Account Funds
 - (1) Criminal assessments held by Court Clerks must be accounted for within the appropriate fund authorized by state law for use by the court.
 - (2) Cash Bond Appearance Bond Fees collected in advance must be held in a “Clearing Account” a along with the bond until a determination of guilty, not guilty, dismissed, or nolle prosequi.
 - (3) The Chancery Clerks and Municipal Clerks must maintain a “State Assessment Clearing Fund” to account for assessment collections received from court clerks; and to be settled to state agencies or refunded.
- (d) Accounting Records Court Clerks must maintain accounting records to support collection and disbursement of assessments. Accounting procedures required by state law for other funds in the custody of the Court Clerk shall apply.

Source: *Miss. Code Ann.* § 25-1-72.

Rule 1.5 Settlement of Assessments.

- (a) Daily Settlement – *all collections* of assessments must be settled by the court clerk into the depository/treasure within one working day. (*See* *Miss. Code Ann.* Section 25-1-72).
 - (1) Monthly Settlement
 - (i) County Courts - all collections of assessments in county courts must be settled and reported by the Court Clerks to the Chancery Clerk on no less than a monthly basis (*See* Section 9-11-19). The Chancery Clerk must make monthly settlement of *assessments* to the state as required by these regulations and Section 99-19-73.
 - (ii) Municipal Courts - all collections of assessments in municipal court must be reported by the Court Clerk to the Municipal Clerk (at least) on a monthly basis. The Municipal Clerk must make a monthly settlement of assessments to the state as require by the regulations and Section 99-19-73.
 - (2) Settlement Reports - Settlement reports prepared by Court Clerks must contain all information required by the State Agency to ultimately receive the assessment collections and other information as may be required by state law and the county or municipality, respectively.
 - (3) Settlement Forms

- (i) State Agencies - Each State Agency is authorized to prescribe a settlement form to be used by counties and municipalities when making assessment settlements. This form is to define assessments and provide such other information as the state agency may require for processing of the assessment settlement.
 - (ii) Counties and Municipalities - Chancery Clerks and Municipal Clerks are required to prepare and provide these completed forms to State Agencies when settlements of assessments are made.
- (4) Settlement Codes - State Agencies prescribing settlement forms may also prescribe settlement codes to be associated with each type of assessments. Court Clerks, Chancery Clerks, and Municipal Clerks must account for and settle assessments in association with these codes.
- (5) Pre Code Assessment Collections - When collections are made of assessments that were imposed prior to being combined into the State Uniform Assessment system effective October 1, 1990, the amounts must be reclassified by type of violation and accounted for using the proper settlement code.

Source: *Miss. Code Ann.* §§ 9-11-19, 25-1-72, 99-19-73.

Rule 1.6 Refund of Assessments.

(a) Refunds by Counties or Municipalities

- (1) Authorization of Refunds - Court Clerks may authorize a refund of an assessment when any of the following circumstances occur.
- (i) Over payments have been made due to collection error,
 - (ii) upon a proper order of a court,
 - (iii) or when a conviction has been overturned upon appeal.
- (2) Authorization Documentation - *Certificates of Eligibility* - Authorizations must be documented as follows.
- (i) How Documented - A “Certificate of Eligibility” is a *mandatory document* that must be issued by the Court Clerk to authorize refunds. This document must be prepared as a record of authorization, regardless of who makes the refund.
 - (ii) Form of Certificate of Eligibility - A “*Certificate of Eligibility*” document must be *written, signed* and include the *date, case number, payee, amount due and reason* for the refund. This document may be take electronic form, as provided by Section 75-12-13 of the Mississippi Code of 1972, Annotated.
 - (iii) Distribution of Certificate of Eligibility Copies - Copies of the certificate must be provided to the person seeking refund, the Chancery Clerk or Municipal Clerk who is to make the refund; and a copy of all certificates issued must be maintained as a record in the Court Clerk’s office.

(3) Payment of Refunds

- (i) County Refunds - In counties, the Chancery Clerk refunds previously settled collections which have been authorized by a “*certificates of eligibility*.” Copies of all certificates received must be maintained as a record to support payment of the refund. It shall not be necessary for the Board of Supervisors to approve such refunds.
- (ii) Municipal Refunds - In municipalities, the municipal clerk refunds previously settled collections which have been authorized by a “certificates of eligibility”. Copies of all certificates received must be maintained as a record to support payment of the refund. It shall not be necessary for the governing authorities of the municipality to approve such refunds.
- (iii) Court Clerk Refunds - Court Clerk’s having custody of collections authorized for refund, and who have authority to sign checks on the depository account holding the overpayment, may make refunds from the overpaid funds.

(4) Source of Refunds

- (i) Refunds must be made from the funds into which the original money was settled. For example: an overpayment of state uniform assessment collections which was settled into the “State Assessment Clearing Fund” may only be refunded from funds currently available in that fund.
- (ii) If assessment money has already been settled to the state, refunds are made from later similar collections currently on hand. In counties, this includes the combined collections of similar funds from all county courts (justice, county, circuit and chancery courts).
- (iii) If refunds payable exceed funds on hand and/or which will be available within a reasonable amount of time, a refund may be requested from the State Agency to whom the funds were settled. See the following procedure for “Refunds by State Agencies.”

(b) Refunds by State Agencies

- (1) Authorization of Refunds - A State Agency (Department of Finance and Administration, Mississippi Department of Public Safety, etc.) is authorized to refund assessments when any of the following circumstances occurs.
 - (i) Overpayments of settlements have been made by a county or municipality to the agency. Overpayments may be due to, but not limited to, accounting errors, settlement errors, or overturned convictions.
 - (ii) A court of competent jurisdiction orders a refund to be made.

- (2) Authorization Documentation - A State Agency must have documentation that a refund has been authorized. Documentation includes a copy an official request for refund from the county or municipality; any of the following verifications.
- (i) A copy of a court order directing the refund. Such court order must be issued by a court of competent jurisdiction.
 - (ii) An audited report issued by a Certified Public Account verifying an overpayment.
 - (iii) A letter of verification of overpayment issued by the State Auditor or his designee.
- (3) Payment of Refunds - A State Agency may make authorized refund payments utilizing its usual procedures for issuing payments of obligations.
- (4) Source of Refunds - A State Agency may make payments from any funds legally available for payment of such obligations.

Source: *Miss. Code Ann.* §§ 7-7-211, 75-12-11, 75-12-13.