

LaFin NRW, Abt. (UE / UH oder UK), 40302 Düsseldorf

Empfänger/-in

— **Payments under the Advance on Child Support Act
(Unterhaltsvorschussgesetz - UVG) for the child (Vorname
Familiename) born on (Geburtsdatum)**

Dear Madam / Sir XXX,

enclosed in this writing, you will find:

-
- **Notice of Intended Recovery of Funds,**
 - **explanation** of the legal framework and claim(s),
 - a **questionnaire** on your personal and economic situation including **instructions on the completion of the form,** and
 - **information sheet** on the increased obligation to secure income.

Please also contact the State Bureau for Finance (Landesamt für Finanzen - LaFin), if you are already making payments related to the above matter.

Yours sincerely,
For the Director

[signed] (Familiename Sachbearbeitung)

Empfänger/-in

Notice of Intended Recovery of Funds

Payments under the Advance on Child Support Act (Unterhaltsvorschussgesetz - UVG) for the child (Vorname Familienname) born on (Geburtsdatum)

Dear Madam / Sir XXX,

Your child has received **payments under the Advance on Child Support Act (UVG)** amounting to (lfd. UVG) euros per month since (TT.MM.JJJJ). The child support claim – amounting to the advance payments made – is transferred to the State of North Rhine-Westphalia in accordance with Section 7(1) of the Advance on Child Support Act (UVG).

Please transfer the **amount already paid to your child amounting to (Rückstand Euro)** no later than **(TT.MM.JJJJ)**.

In addition, you will have to transfer the current monthly support amount **(current payment in accordance with UVG in euro)** to the following account on the first day of each month from **(DD.MM.YYYY)**:

Account holder	Landeshauptkasse
IBAN:	DE75 3005 0000 0004 1000 79
BIC:	WELADEDXXX
Purpose of transfer	(Kassenzeichen)

If you do not accept the child support claim by way of transfer of the amount due, please return the attached questionnaire fully completed including relevant evidences no later than **(TT.MM.JJJJ)**. **Otherwise, we assume that you are capable of paying child support.**

Please note that you have an increased obligation to take all reasonable steps to earn a sufficient income in order to fulfil your obligation to pay

3

child support. If you wish to claim inability to pay child support in line with your obligations under the law, this must be proven by sufficient evidence (e. g. approval notices for social benefits (Book XII of the Code of Social Law (SGB XII)), approval of basic subsistence income for job seekers (Book II of the Code of Social Law (SGB II)), income tax assessment). If you do not respond to this letter, a notional income will be imputed, from which child support payments can be deducted.

It is also possible to verify, whether payment of arrears in instalments is possible.

4

You are advised that you will have to bear possible costs for collection proceedings, interests and debt enforcement. In addition, I can initiate a proceeding before the family court against you that includes court fees.

It would therefore be in your best interest to cooperate.

If any further questions arise, or if you need assistance with the completion of the forms, please do not hesitate to contact us. Together, we can find a solution that is in the best interests of your child's wellbeing.

Data protection notice:

You will find information on the processing of personal data within the State Bureau for Finance (Landesamt für Finanzen) for the purpose of payment processing and enforcement, on your rights under the General Data Protection Regulation, and on your contact in data protection matters under: www.finanzverwaltung.nrw.de/landesamt-fuer-finanzen.

FAQs:



(QR-Code = <https://www.finanzverwaltung.nrw.de/de/fragen-und-antworten-fuer-unterhaltspflichtige>)

Yours sincerely,
For the Director

[signed] (Familiename Sachbearbeitung)

Explanatory notes on the Notice of Intended Recovery of Funds

In the following, the Notice of Intended Recovery of Funds will be explained in detail. References to the respective sections are made by the numbers on the left margin.

Claim

1 Your child receives payments under the Advance on Child Support Act (UVG), because you have been failing to (fully) meet your obligation to pay child support. The payable amount is prescribed in Section 1 of the Minimum Child Support Regulation (Mindestunterhaltsverordnung - MinUhV) and calculated after deduction of child benefit (Kindergeld) and chargeable income from maintenance payments. For the duration of the advance payments to your child, the child support claim – limited to the advance payments made – is transferred to the State of North Rhine-Westphalia, represented by the State Bureau for Finance (Landesamt für Finanzen), in accordance with Section 7(1) of the Advance on Child Support Act (UVG). This means that the State Bureau for Finance (Landesamt für Finanzen) is your creditor in this matter. Therefore, you can make maintenance payments with discharging effect only by payments to the State Bureau for Finance (Landesamt für Finanzen).

We can only accept child support payments, if these are **transferred directly to the State Bureau for Finance (Landesamt für Finanzen) or, subject to our approval, directly to the child**, or to a third party (e. g. guardian of the Youth Welfare Office (Jugendamt) or attorney).

If you are not able to pay the total arrears in one instalment, please inform us immediately. We will then check the **possibility of a deferral agreement**, and payment by several instalments.

Transfer

2 When making payments, the corresponding transaction number must be indicated, because otherwise, a clear allocation of your payments to our accounting entries is not possible or will be delayed. Any disadvantage caused by a delayed allocation of transfers to our accounting entries, will be held against you.

You are obliged to transfer the accumulated arrears to the indicated account no later than (TT.MM.JJJJ). If you are not able to comply, you must contact us immediately.

Liability and next steps

In accordance with Section 1601 et seq. of the German Civil Code (Bürgerliches Gesetzbuch - BGB), you are liable to pay child support and to provide relevant information to your children. In addition to the child support claim, also the right to make enquiries is transferred to the State of North Rhine-Westphalia and will be enforced by us.

As long as you fail to show evidence proving that you are not (fully) able to pay child support, we have to assume, in line with the ruling of the Federal Court of Justice, that you are fully capable of paying. **Providing the required information is in your interest.** For your reply, please use the following postal address:

*Landesamt für Finanzen NRW
Abt. (UE / UH oder UK)
40302 Düsseldorf*

If you want to substantiate and evidence your inability to perform, you can state your personal and economic situation in this writing. You must complete, sign and return the attached questionnaire no later than (TT.MM.JJJJ). Please enclose the relevant evidences as copies (no originals).

3

You also need to prove that you have been making every effort to earn enough money, since you have an increased obligation towards underaged children. This means that you must do everything within your power to fulfil your obligation to pay child support and take all reasonable steps to earn a sufficient income to fulfil your obligation to pay child support.

According to the ruling of the German Federal Court of Justice, there is an **increased obligation to secure income**. This includes the obligation to accept work not normally in line with your vocational, academic or professional qualification. This might include side jobs and overtime up to a weekly working time of 48 hours. Under certain circumstances also a change of workplace or occupational change can be ordered.

If you cannot evidence sufficient efforts, a **notional income** will be imputed, from which child support payments can be deducted, at least up to the amount of the child support due.

If you do not provide evidences of your income and financial situation correctly, completely and in due time, we will obtain the information required to determine your obligation to pay child support from third parties (e.g. employers, job centres, etc.).

If there is a guardianship agreement (Beistandschaft) with the local Youth Welfare Office (Jugendamt), the guardian may request you to transfer your payment to the guardian's account. Please indicate these payments truthfully in the questionnaire to avoid any misunderstandings.

Consequences

if you are in **arrears** (default), you will bear the arising additional costs. These can include **interests, dunning and debt enforcement fees** as well as **costs of the proceeding**.

If you, deliberately or by negligence and in violation of statutory provisions, fail to provide the required information correctly, completely and within the deadline set, you are committing a regulatory offence. This can be punished by a **fine of up to 1000 euros** (Section 10 of the Advance on Child Support Act (UVG), Section 17 of the Administrative Offences Act (OWiG)).

Please note that required information on your income and financial situation can be requested from the Federal Central Tax Office IAW Section 6 (6) of the UVG. If such a request has been made, the Federal Central Tax Office will supply your account master data forwarded by the banks (including name of the account holder, date of birth, account number and the right of disposition), unless the account was closed down three or more years ago (Section 6 (6) of the Advance on Child Support Act (UVG) in conjunction with Section 93b (4) of the Fiscal Code (Abgabenordnung - AO), Section 24c (1) of the Banking Act (Kreditwesengesetz - KWG).

4

If you do not respond to this letter, please be aware that a **debt enforcement procedure** will be initiated to enforce the child support claim transferred to the State Bureau for Finance.

Please be advised that it is an **offence** under Section 170 of the German Criminal Code (Strafgesetzbuch - StGB) **to evade your statutory child support obligations** by which the child's livelihood is jeopardized or would be jeopardized without the help of others. We are authorized and expressly reserve the right to **file a criminal complaint**.

Information sheet on the increased obligation to secure income

As parent obliged to make child support payments, you have an **increased obligation to use your full working capacity**. This means that you have to take all reasonable steps to fulfil your obligation to pay child support (**increased obligation to secure income**).

If you cannot evidence sufficient efforts, a **notional income** will be imputed (Federal Court of Justice ruling (BGH) from 22 October 1997 - XII ZR 278/95, published in FamRZ 1998, p. 357 et seq., p. 359). This will be the case if you are accused of irresponsible or careless behaviour. This applies particularly to reduced work performance resulting from a job or career change. If a change to a position with lower pay is not mandatory, the **child support payment will be calculated based on the higher earnings** paid previously by the former employer.

Due to the increased obligation towards underaged children, there is an **increased obligation to secure income**. This means that you are obliged to accept work not normally in line with your vocational, academic or professional qualification. You may also be obliged to accept **additional side jobs** and **overtime** up to a weekly working time of 48 hours. Under certain circumstances, also a change of workplace or occupational change can be ordered (Federal Court of Justice ruling on reasonableness from 9 July 1980 - in conjunction with ZR 529/80, cf. also Federal Constitutional Court (BVerfG) decision of 29 December 2005 - 1 BvR 2076/03).

In the event of unemployment, the increased obligation to secure income to fulfil the child support obligations towards underaged children is only deemed fulfilled, if **at least 20 job applications per month** are written (Cologne Higher Regional Court (OLG Köln) decision of 29 January 2010 - 4 WF 6/10). Evidence for this must be provided.

You must display intensive and continuous efforts to obtain employment, i.e. over a longer period of time, and you must make full use of all possible options. This requires **taking the initiative pro-actively**. Applications must display a serious interest in maintaining a job, both when selecting suitable employers and in terms of the type and content of work. Application efforts made exclusively by telephone or in person will raise doubts about the seriousness of the efforts and will not be recognized. If you are not seriously seeking work, you cannot claim inability to perform.

This also applies to the selection of suitable jobs, which must not be limited to a narrow area of activity, but must cover all relevant fields of work. **Insufficient employment acquisition efforts may result in the allocation of a notional income.**



Do you have any questions?

More information can be found in our FAQs:

<https://www.finanzverwaltung.nrw.de/de/fragen-und-antworten-fuer-unterhaltspflichtige>

