

HR 3498 IH

109th CONGRESS

1st Session

**H. R. 3498**

To amend title 31, United States Code, to allow certain local tax debt to be collected through the reduction of Federal tax refunds.

**IN THE HOUSE OF REPRESENTATIVES****July 28, 2005**

Mr. TURNER (for himself, Mr. TOM DAVIS of Virginia, and Mr. MORAN of Virginia) introduced the following bill; which was referred to the Committee on Government Reform, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

**A BILL**

To amend title 31, United States Code, to allow certain local tax debt to be collected through the reduction of Federal tax refunds.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXPANSION OF TAX REFUND REDUCTION PROVISION TO INCLUDE CERTAIN LOCAL TAX DEBT.**

(a) Section 3720A of title 31, United States Code (relating to reduction of tax refund by amount of debt) is amended by adding at the end the following:

`(j) Collection of Past-Due Legally Enforceable Local Government Tax Obligations- (1) Upon receiving notice from any State on behalf of a local government that a named person owes a past-due, legally enforceable tax obligation to such local government, the Secretary of the Treasury shall, under such conditions as may be prescribed by the Secretary, determine whether any amounts, as refunds of Federal taxes paid, are payable to such person. If the Secretary of the Treasury finds that any such amount is payable, he shall--

    (A) reduce such refunds by an amount equal to the amount of such debt;

    (B) pay the amount of such reduction to the State for purposes of payment by the State to the local government on behalf of which the State submitted the notice;

    (C) notify the State of the person's name, taxpayer identification number, address, and the amount collected; and

`(D) notify the person due the refund that the refund has been reduced by an amount necessary to satisfy a past-due, legally enforceable tax obligation.

`(2) Priorities for Offset- (A) Any overpayment (as defined in section 6401 of the Internal Revenue Code of 1986) by a person shall be reduced pursuant to this subsection--

`(i) after such overpayment is reduced (I) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment; (II) with respect to past-due support (as defined in section 464(c) of the Social Security Act); (III) with respect to any past-due, legally enforceable debt owed to a Federal agency; and (IV) with respect to any past-due, legally enforceable State income tax obligation (as defined in section 6402(e) of the Internal Revenue Code of 1986); and

`(ii) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person.

`(B) If the Secretary receives notice from one or more States (on behalf of local governments) of more than one tax obligation subject to paragraph (1) that is owed by such person to any local government, any overpayment by such person shall be applied against such debts in the order in which such notices were filed.

`(3) Notice; Consideration of Evidence- No State may take action under this subsection on behalf of a local government until the local government certifies to the State that the local government--

`(A) has notified the person owing the past-due, legally enforceable tax obligation by certified mail with return receipt that the State (on behalf of the local government) proposes to take action pursuant to this section;

`(B) has given such person at least 60 days to present evidence that all or part of such liability is not past-due or not legally enforceable;

`(C) has considered any evidence presented by such person and has determined that an amount of such debt is past-due and legally enforceable; and

`(D) has satisfied such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the local government has made reasonable efforts to obtain payment of such tax obligation.

`(4) Definition of Past-Due, Legally Enforceable Tax Obligation- In this subsection, the term 'past-due, legally enforceable tax obligation' means a tax debt--

`(A)(i) which resulted from--

`(I) a judgment rendered by a court of competent jurisdiction which has determined an amount of tax to be due; or

`(II) a determination after an administrative hearing which has determined an amount of tax to be due; and

`(ii) which is no longer subject to judicial review; or

`(B) which resulted from a tax which has been assessed but not collected, the time for redetermination of

which has expired, and which has not been delinquent for more than 10 years.

`(5) Regulations- The Secretary shall issue regulations prescribing the time and manner in which States (on behalf of local governments) must submit notices of past-due, legally enforceable tax obligations and the necessary information that must be contained in or accompany such notices. The regulations shall specify the types of taxes and the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied. The regulations may require States (on behalf of local governments) to pay a fee to reimburse the Secretary for the cost of applying such procedure, and such fee may be reimbursed by local governments to States in accordance with applicable State law. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

`(6) Erroneous Payment to State- Any State receiving notice from the Secretary that an erroneous payment has been made to such State with respect to a notice by the State on behalf of a local government under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).

`(k) Treatment of Payments Made to States- The Secretary may provide that, for the purposes of determining interest, the payment of any amount withheld under subsection (j) to a State (on behalf of a local government) shall be treated as a payment to the person or persons making the overpayment.'

(b) Disclosure of Certain Information to Agencies of States Requesting Refund Offsets for Past-Due, Legally Enforceable Tax Obligations- Paragraph (10) of section 6103(l) of the Internal Revenue Code of 1986 is amended--

(1) in the paragraph heading, by inserting after `6402' the following: `OR UNDER SUBSECTION (j) OF SECTION 3720A OF TITLE 31, UNITED STATES CODE';

(2) in subparagraph (A), by inserting after `6402' the following: `or subsection (j) of section 3720A of title 31, United States Code,'; and

(3) in subparagraph (B)--

(A) by striking `section 6402 is' and inserting `section 6402 or under subsection (j) of section 3720A of title 31, United States Code, is'; and

(B) by striking `section 6402.' and inserting `section 6402 or under subsection (j) of section 3720A of title 31, United States Code.'.

*END*