

QUESTIONS AND ANSWERS REGARDING THE FEDERAL OFFSET PROGRAM

Is it true that by allowing local governments to participate in the Federal Offset Program, a huge administrative burden will be passed on to Financial Management Service? (Financial Management Service is the division of the Department of Treasury which handles the Federal Offset Program.)

No, the program is deliberately designed not to be burdensome to Financial Management Service. Under the proposed legislation, the local governments will send their tax debt information to the appropriate state taxing authority. The state taxing authority will be the clearing house for the local governments. Thirty-eight states including Washington DC are currently participating in the Federal Offset Program and have the required computer programs in place. Nineteen states allow their localities to send their debt information to the state taxing authority to participate in the state's tax offset program. For nineteen states, it will be a simple matter of passing the information onto the Financial Management Services.

Will allowing local governments to participate in the Federal Offset Program increase the numbers of clients from its current seventy to potentially thousands of localities, thereby placing a huge administrative burden on Financial Management Service?

No, the client base stays the same. The state taxing authority will act as the clearing house for the local governments. All tax debt will be filtered through the participating state taxing authorities. A local government can participate in the program only if its state is involved in the Federal Offset Program.

Is it true that by allowing local governments to participate in the Federal Offset Program, a huge administrative burden will be passed on to the state taxing authority?

This is not true. The local governments will send their tax debt information to the state taxing authority, as they already do. The state taxing authority will be the clearing house for the local governments. Thirty-eight states are already participating in the Federal Offset Program and have the required computer programs in place. Under the current program, all data and funds are sent electronically, minimizing the administrative burden.

What does the state get out of the deal?

The state may charge a fee to the locality for simply passing the tax debt information to Financial Management Service. The amount a state may charge a locality varies from state to state. It depends upon what amount is allowed under the applicable state code.

Will the states be responsible for the fee due to the Financial Management Service for each account match?

The \$25.00 fee, due to Financial Management Service, for each account match, will be paid by the local government. In addition, the states will receive the fee that they normally charge localities for collection under the existing state debt offset program.

Are the state taxing authorities required to send out notices to taxpayers via certified mail? Such a mailing process could be time-consuming and cost the states significant amounts.

No, the states will not be required to send out the notices via certified mail. In accordance with the proposed statute, the local governments **must** send out the certified mail notices on each delinquent tax account submitted to the Federal Offset Program.

By allowing local governments to participate in the Federal Offset Program, will the Department of Treasury be disclosing any information to the local governments?

No, the only information given to the local governments will be the account number, name of the taxpayer and the amount of the match on the refund. No other information will be provided to the local governments.

Can the local governments attempt to collect for parking tickets, library fees, park and recreation fees, court fees, and other miscellaneous debt?

No. The local governments can submit only delinquent tax debt.

Will allowing local governments to participate in the Federal Offset Program significantly lower the amount of funds that the federal government, states' child support agencies and the state taxing authorities can collect?

Absolutely not. The proposed legislation places the local governments in the fifth tier in order of payment from the federal tax refund. Four other government entities must be paid before the local governments can receive any funds. The order of priority is as follows: 1) federal income tax, 2) state child support agencies, 3) federal government agencies, 4) state income tax, and, finally, 5) local government delinquent taxes.

Can a local government participate in the Federal Offset Program if its state is not participating in the Federal Offset Program?

No. A local government can only participate in the Federal Offset Program if its state is participating in the program. The local governments must rely on the computer programs and systems that the state taxing authorities have implemented for participation in the Federal Offset Program.

When will local government send the tax account for participation in the Federal Offset Program?

Tax accounts will not be submitted for collection by the Federal Offset Program until, at least, sixty days after the certified mail notice is mailed to the debtor, in accordance with the statute. This time period allows the citizen ample time to successfully dispute or pay the tax bill. No state taxing authority will submit a local government tax debt to Financial Management Service until the sixty day period from the certified mailing to the taxpayer has elapsed.

Can a citizen dispute or pay a bill after the certified notice has been mailed to them and after the account has been sent for participation in the Federal Offset Program?

Absolutely.

Is due process afforded the citizens under this proposed legislation allowing local governments to send accounts to Financial Management Service for participation in the Federal Offset Program?

Yes. The local government must mail a tax bill and at least two delinquency notices and attempts, at least, one phone call to the delinquent taxpayer. Under the proposed legislation, the local government must send to the delinquent taxpayer a certified mail notice that the taxpayer's delinquent account will be submitted to the Financial Management Services for involvement in the Federal Offset Program. Following this certified mail notice, a taxpayer has sixty days to successfully dispute or pay the tax bill.

How will the state taxing authority know that the local government complied with the certified mailing requirement of the statute?

The local government must certify in writing to the state taxing authority that it has complied with the statute requirements prior to sending an account to the taxing authority for involvement in the Federal Offset Program. A sample certification is attached hereto.

What happens if a citizen's federal refund is offset and the money is not owed by the citizen to the local government?

The Financial Management Service will reimburse the citizen. The state taxing authority will reimburse Financial Management Service. Either, the local government will refund the money to the state taxing authority (including applicable fees) or the state will withhold the amount due to the locality in future payments. However, Financial Management Services and the State Taxing Authority will keep the administrative fees paid to them by the local government. The states may have to pay interest on the citizen's reimbursement, but Financial Management Services will not have to pay interest on a reimbursement. The states may pass the interest payment on to the locality.

Are the administrative fees paid to Financial Management Service and the state taxing authority refundable to the local government?

No, the fees are not refundable under any circumstances.

Will the Department of Treasury's reputation be affected by allowing the local governments to participate in the Federal Offset Program?

By allowing the local governments to participate in the Federal Offset Program, the Department of Treasury is making good tax policy. Good citizens, who pay their taxes and vote, will appreciate that the federal government is assisting localities to collect from the scofflaws. Each citizen should share in paying his fair share of taxes. "Taxes are the lifeblood of government, and their prompt and certain availability an imperious need." U.S. Supreme Court Justice Roberts in Bull v. United States, 295 U.S. 247 (1935).

Is it fair to the citizens to allow local governments to participate in the Federal Offset Program?

Yes. It is particularly fair to the overwhelming majority of citizens, who pay their taxes on time, because it helps to collect from the citizens who are not paying their share of the tax burden. It is also fair to the delinquent taxpayer or non taxpayer, because due process applies at all stages. Prior to any account being sent to the offset program, the local government mails a bill and, at least, two delinquency notices and attempts a phone call. When the local government sends the account to the Federal Offset Program, the local government must send a notice out via certified mail. At this point, the delinquent taxpayer or non taxpayer has been contacted at least five times, over more than ninety days, and has had ample opportunity to pay or dispute the tax bill.

What is the fiscal impact of the Commonwealth of Virginia participation in the Federal Tax Offset program?

For Virginia localities, it is estimated that it will bring in between **65-70 million dollars** in revenue. Furthermore, the Commonwealth would receive some of these funds. Each locality would be required to pay the Commonwealth of Virginia Department of Taxation a fee for passing the tax debt information onto Financial Management Service.

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**Certification of Compliance
with the
Federal Offset Program for Local Taxes**

To The Commonwealth of Virginia Department of Taxation:

I, _____, the duly elected or appointed treasurer or finance officer of _____ do attest as follows:

- 1) The data file being submitted reflects only local taxes, all of which were assessed within the last ten years.
- 2) No debtor is associated with a total tax liability of less than \$50.00.
- 3) Each taxpayer listed was mailed certified notice no later than _____ and should not be submitted to the Federal Offset Program prior to _____, the difference between these two dates being greater than sixty (60) days.
- 4) Each taxpayer listed has been mailed: a tax assessment, two delinquency notices, and, at least, one telephone call has been attempted.
- 5) In the event of erroneous collection, all associated fees charged by the federal and/or state government(s) shall be paid by my jurisdiction.
- 6) All information concerning taxpayers shall be regarded as strictly confidential.

I recognize that adherence to all of the above strictures is subject to audit by the Commonwealth of Virginia and/or the Department of Treasury and that any violation, thereof, may result in my locality being terminated from the program.

Signed under my hand this ____ day of _____, _____.

(Signature)

(Title)

Federal Offset Program

List of Participating States

Alabama	Missouri
Arizona*	Montana
Arkansas*	Nebraska
California*	New Jersey*
Colorado	New Mexico
Delaware	New York
Georgia	North Carolina*
Hawaii	Ohio
Idaho	Oklahoma
Illinois	Oregon
Indiana*	Pennsylvania
Iowa**	Rhode Island**
Kansas*	South Carolina*
Kentucky	Utah
Louisiana	Vermont
Maine*	Virginia*
Maryland*	Washington, DC*
Massachusetts*	West Virginia*
Minnesota	Wisconsin*

*Indicates states that also participate in State offset programs.

**Participates in a State offset program, but not for local taxes.

States that do not participate in the Federal Offset Program, but use a State offset program include: Connecticut, Mississippi, and South Dakota.

The following states do not have a personal income tax: Alaska, Florida, Nevada, New Hampshire, South Dakota, Tennessee, Texas, Washington and Wyoming.

