

111TH CONGRESS
2D SESSION

S. 3989

To amend the Internal Revenue Code of 1986 to allow an offset against income tax refunds to pay for restitution and other State judicial debts that are past-due.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 30, 2010

Mr. WYDEN (for himself, Mr. SESSIONS, Mrs. McCASKILL, and Mr. THUNE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow an offset against income tax refunds to pay for restitution and other State judicial debts that are past-due.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. OFFSET OF RESTITUTION AND OTHER STATE**
4 **JUDICIAL DEBTS AGAINST INCOME TAX RE-**
5 **FUND.**

6 (a) IN GENERAL.—Section 6402 of the Internal Rev-
7 enue Code of 1986 (relating to authority to make credits
8 or refunds) is amended by redesignating subsections (f)

1 through (l) as subsections (g) through (m), respectively,
 2 and by inserting after subsection (f) the following:

3 “(g) COLLECTION OF PAST-DUE, LEGALLY EN-
 4 FORCEABLE RESTITUTION AND OTHER STATE JUDICIAL
 5 DEBTS.—

6 “(1) IN GENERAL.—In any State which wishes
 7 to collect past-due, legally enforceable State judicial
 8 debts, the chief justice of the State’s highest court
 9 shall designate a single State entity to communicate
 10 judicial debt information to the Secretary. In mak-
 11 ing such designation, the chief justice of the State’s
 12 highest court shall select, whenever practicable, a
 13 relevant State official or agency responsible under
 14 State law for collecting the State’s income tax or
 15 other statewide excise at the time of the designation.
 16 Upon receiving notice from a State designated entity
 17 that a named person owes a past-due, legally en-
 18 forceable State judicial debt to or in such State, the
 19 Secretary shall, under such conditions as may be
 20 prescribed by the Secretary—

21 “(A) reduce the amount of any overpay-
 22 ment payable to such person by the amount of
 23 such State judicial debt;

24 “(B) pay the amount by which such over-
 25 payment is reduced under subparagraph (A) to

1 such State designated entity and notify such
2 State designated entity of such person's name,
3 taxpayer identification number, address, and
4 the amount collected; and

5 “(C) notify the person making such over-
6 payment that the overpayment has been re-
7 duced by an amount necessary to satisfy a past-
8 due, legally enforceable State judicial debt.

9 If an offset is made pursuant to a joint return, the
10 notice under subparagraph (B) shall include the
11 names, taxpayer identification numbers, and ad-
12 dresses of each person filing such return.

13 “(2) PRIORITIES FOR OFFSET.—Any overpay-
14 ment by a person shall be reduced pursuant to this
15 subsection—

16 “(A) after such overpayment is reduced
17 pursuant to—

18 “(i) subsection (a) with respect to any
19 liability for any internal revenue tax on the
20 part of the person who made the overpay-
21 ment;

22 “(ii) subsection (c) with respect to
23 past-due support;

1 “(iii) subsection (d) with respect to
2 any past-due, legally enforceable debt owed
3 to a Federal agency; and

4 “(iv) subsection (e) with respect to
5 any past-due, legally enforceable State in-
6 come tax obligations; and

7 “(B) before such overpayment is credited
8 to the future liability for any Federal internal
9 revenue tax of such person pursuant to sub-
10 section (b).

11 If the Secretary receives notice from 1 or more State
12 designated entities of more than 1 debt subject to
13 paragraph (1) that is owed by such person to such
14 State agency or State judicial branch, any overpay-
15 ment by such person shall be applied against such
16 debts in the order in which such debts accrued.

17 “(3) NOTICE; CONSIDERATION OF EVIDENCE.—
18 Rules similar to the rules of subsection (e)(4) shall
19 apply with respect to debts under this subsection.

20 “(4) PAST-DUE, LEGALLY ENFORCEABLE STATE
21 JUDICIAL DEBT.—

22 “(A) IN GENERAL.—For purposes of this
23 subsection, the term ‘past-due, legally enforce-
24 able State judicial debt’ means a debt—

1 “(i) which resulted from a judgment
2 or sentence rendered by any court or tri-
3 bunal of competent jurisdiction which—

4 “(I) handles criminal or traffic
5 cases in the State; and

6 “(II) has determined an amount
7 of State judicial debt to be due; and

8 “(ii) which resulted from a State judi-
9 cial debt which has been assessed and is
10 past-due but not collected.

11 “(B) STATE JUDICIAL DEBT.—For pur-
12 poses of this paragraph, the term ‘State judicial
13 debt’ includes court costs, fees, fines, assess-
14 ments, restitution to victims of crime, and other
15 monies resulting from a judgment or sentence
16 rendered by any court or tribunal of competent
17 jurisdiction handling criminal or traffic cases in
18 the State.

19 “(5) REGULATIONS.—The Secretary shall issue
20 regulations prescribing the time and manner in
21 which State designated entities must submit notices
22 of past-due, legally enforceable State judicial debts
23 and the necessary information that must be con-
24 tained in or accompany such notices. The regula-
25 tions shall specify the types of State judicial monies

1 and the minimum amount of debt to which the re-
2 duction procedure established by paragraph (1) may
3 be applied. The regulations shall require State des-
4 ignated entities to pay a fee to reimburse the Sec-
5 retary for the cost of applying such procedure. Any
6 fee paid to the Secretary pursuant to the preceding
7 sentence shall be used to reimburse appropriations
8 which bore all or part of the cost of applying such
9 procedure.

10 “(6) ERRONEOUS PAYMENT TO STATE.—Any
11 State designated entity receiving notice from the
12 Secretary that an erroneous payment has been made
13 to such State designated entity under paragraph (1)
14 shall pay promptly to the Secretary, in accordance
15 with such regulations as the Secretary may pre-
16 scribe, an amount equal to the amount of such erro-
17 neous payment (without regard to whether any other
18 amounts payable to such State designated entity
19 under such paragraph have been paid to such State
20 designated entity).”.

21 (b) DISCLOSURE OF RETURN INFORMATION.—Sec-
22 tion 6103(l)(10) of the Internal Revenue Code of 1986
23 (relating to disclosure of certain information to agencies
24 requesting a reduction under subsection (c), (d), (e), or
25 (f) of section 6402) is amended by striking “or (f)” each

1 place it appears in the text and heading and inserting “(f),
2 or (g)”.

3 (c) CONFORMING AMENDMENTS.—

4 (1) Section 6402(a) of the Internal Revenue
5 Code of 1986 is amended by striking “and (f)” and
6 inserting “(f), and (g)”.

7 (2) Paragraph (2) of section 6402(d) of such
8 Code is amended by striking “subsections (e) and
9 (f)” and inserting “subsections (e), (f), and (g)”.

10 (3) Paragraph (3)(B) of section 6402(e) of
11 such Code is amended to read as follows:

12 “(B) before such overpayment is—

13 “(i) reduced pursuant to subsection
14 (g) with respect to past-due, legally en-
15 forceable State judicial debts, and

16 “(ii) credited to the future liability for
17 any Federal internal revenue tax of such
18 person pursuant to subsection (b).”.

19 (4) Section 6402(h) of such Code, as so redesi-
20 gnated, is amended by striking “or (f)” and insert-
21 ing “(f), or (g)”.

22 (5) Section 6402(j) of such Code, as so redesign-
23 nated, is amended by striking “or (f)” and inserting
24 “, (f), or (g)”.

1 (d) **EFFECTIVE DATE.**—The amendments made by
2 this Act shall apply to refunds payable for taxable years
3 beginning after December 31, 2009.

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