

IN THE SENATE

SENATE BILL NO. 1125

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1  
2 RELATING TO COURTS; AMENDING SECTION 1-1624, IDAHO CODE, TO REVISE TERMINOL-  
3 OGY, TO REVISE A DEFINITION, TO DEFINE A TERM, TO PROVIDE THAT A DELIN-  
4 QUENCY SHALL NOT EXIST IN CERTAIN INSTANCES AND TO PROVIDE FOR A WRITTEN  
5 OBJECTION TO A SET-OFF.

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 1-1624, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 1-1624. SET-OFF PROCEDURE FOR DELINQUENT DEBTS OWED TO THE COURTS. (1)  
10 The purpose of this legislation is to enable the Idaho supreme court, as the  
11 supervisor of the unified and integrated judicial system of this state, to  
12 apply for a set-off of state tax refunds and credits owing to a taxpayer in  
13 payment of a delinquent debt owed by the taxpayer to the courts of this state.  
14 It is the intent of the legislature that this set-off remedy be in addition to  
15 and not in substitution of any other remedy or action provided for by law for  
16 the collection of ~~these amounts~~ such delinquent debts.

17 (2) The state tax commission shall withhold and set-off any income  
18 tax or tax credit refund of any taxpayer, upon notification from the Idaho  
19 supreme court, to collect any debt owed to the courts by the taxpayer which is  
20 delinquent. A remittance by the state tax commission to the court pursuant  
21 to this section shall be deemed to be, to the extent of the remittance, a re-  
22 fund to the taxpayer and any other person who has a claim to such refund, and  
23 the state tax commission shall not be liable to any person because of a refund  
24 that has been remitted under this section.

25 (3) A "debt owed to the courts" means ~~any assessment of fines, court~~  
26 ~~costs, surcharges, penalties, fees, restitution, moneys expended in pro-~~  
27 ~~viding counsel and other defense services to indigent defendants, or other~~  
28 ~~charges which a court judgment has ordered to be paid to the court or which~~  
29 ~~a party has agreed to pay in criminal or civil cases and includes~~ assessed  
30 and contained in a judgment against, or in an agreement by, a defendant in a  
31 criminal proceeding and owed to the court, including any interest or penalty  
32 on such unpaid amounts the same as provided for in the such judgment, such  
33 agreement or by law, except.

34 (4) As used in subsections (3) and (6) of this section, "agreement"  
35 means an agreement that:

36 (a) Has been filed with the court and placed in the court's case file;

37 (b) Has been approved by the court;

38 (c) Provides that all payments due pursuant to the agreement shall be  
39 made to the clerk of the court; and

40 (d) If executed on and after July 1, 2017, contains provisions serving  
41 to notify the taxpayer of payment due dates; the set-off of tax refunds  
42 and credits remedy provided for in this section; and the right to object

1 to a set-off of tax refunds and credits as provided for in subsection  
2 (8) (d) of this section.

3 (5) This section does not apply to a debt owed to the courts which does  
4 not exceed the sum of fifty dollars (\$50.00).

5 (6) A debt owed to the courts is delinquent when it is not paid according  
6 to the terms of the such judgment or order or any agreement entered into be-  
7 tween the court and the taxpayer for the payment thereof, but at no time shall  
8 a delinquency be deemed to exist if the aggregate amount of money paid in sat-  
9 isfaction of an agreement equals or exceeds the total amount of money that  
10 the taxpayer was obligated to pay up to that time pursuant to the agreement.

11 (47) Any claims for current or past-due child support presented under  
12 section 56-203D, Idaho Code, or claims for set-off of income tax refunds  
13 against any tax liability or overpayment of benefits owed to the state  
14 department of labor pursuant to section 63-3077A, Idaho Code, shall take  
15 priority over any claim for delinquent debt owed to the courts under this  
16 section.

17 (58) The set-off or withholding of a refund due a taxpayer shall be re-  
18 mitted only after the following conditions have been met:

19 (a) A debt owed to the courts is delinquent. This section shall not  
20 be used to satisfy any amount ordered by the court until the order or  
21 judgment is final and the time for appealing the judgment or order has  
22 elapsed without any further right on the part of the person owing the  
23 amount to judicial review.

24 (b) All outstanding tax liabilities collectible by the state tax com-  
25 mission are satisfied.

26 (c) The supreme court shall forward to the state tax commission the full  
27 name and social security number of the taxpayer. The tax commission  
28 shall notify the supreme court of the amount of refund due the taxpayer  
29 and the taxpayer's address on the income tax return.

30 (d) Upon remittance of any set-off or part thereof, the court shall  
31 cause a written notice to be sent to the taxpayer whose refund is subject  
32 to the set-off. Notice of the set-off shall be sent by United States  
33 mail to the taxpayer at the address listed on the income tax return.  
34 Within twenty-one (21) days after such notice has been mailed (not  
35 counting Saturday, Sunday or a state holiday as the twenty-first day),  
36 the taxpayer may file a written ~~request for an administrative waiver of~~  
37 ~~objection to the set-off~~ in accordance with procedures established by  
38 the supreme court, which may impose reasonable requirements concerning  
39 the information necessary to process the ~~request for an administrative~~  
40 ~~waiver objection~~. No issues or claims previously decided in a court  
41 order or judgment, or admitted or agreed to by the taxpayer, shall be  
42 considered in connection with a ~~request for an administrative waiver an~~  
43 ~~objection~~. In the case of a refund that is set-off in error under this  
44 section, the court shall reimburse the taxpayer.

45 (69) The supreme court shall create a suspense account to pay amounts  
46 that are found to be set-off in error under the provisions of subsection  
47 (58) (d) of this section or to refund any balance that remains after the debt  
48 to the courts is satisfied. If no written ~~request for an administrative~~  
49 ~~waiver of objection to the set-off~~ is made within twenty-one (21) days, such  
50 failure shall be deemed a waiver of the right to contest the set-off and the

1 amount of the set-off shall be removed from the suspense account and shall  
2 be credited to the taxpayer's debt to the courts. The court may waive the  
3 twenty-one (21) day time limit in appropriate circumstances.

4 (~~7~~10) When set-off is attempted on a joint return under the provisions  
5 of this section, the taxpayer not specified to be the obligor in the judgment  
6 or agreement creating the debt owed to the court may file a written objection  
7 within the time limits specified in subsection (~~5~~8) (d) of this section and  
8 the set-off will be limited to one-half (1/2) of the joint refund.

9 (~~8~~11) If the refund is insufficient to satisfy the entire debt owed to  
10 the courts, the remainder of the debt may be collected as provided by law or  
11 submitted for set-off against subsequent refunds.

12 (~~9~~12) The proceeds from the set-off shall be credited to the debt owing  
13 to the courts and shall be distributed as provided by law.

14 (~~10~~3) The state tax commission and the supreme court independently may  
15 adopt rules governing its administration of this section and are authorized  
16 to enter into a written agreement to implement and facilitate the provisions  
17 of this section, including the method of making remittances of the amount  
18 which has been set-off pursuant to this section.