

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.

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. EXPANSION OF TAX REFUND REDUCTION PRO-**
4 **VISION TO INCLUDE CERTAIN LOCAL TAX**
5 **DEBT.**

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

1 “(j) COLLECTION OF PAST-DUE LEGALLY ENFORCE-
2 ABLE LOCAL GOVERNMENT TAX OBLIGATIONS.—(1)
3 Upon receiving notice from any State on behalf of a local
4 government that a named person owes a past-due, legally
5 enforceable tax obligation to such local government, the
6 Secretary of the Treasury shall, under such conditions as
7 may be prescribed by the Secretary, determine whether
8 any amounts, as refunds of Federal taxes paid, are pay-
9 able to such person. If the Secretary of the Treasury finds
10 that any such amount is payable, he shall—

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

13 “(B) pay the amount of such reduction to the
14 State for purposes of payment by the State to the
15 local government on behalf of which the State sub-
16 mitted the notice;

17 “(C) notify the State of the person’s name, tax-
18 payer identification number, address, and the
19 amount collected; and

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

23 “(2) PRIORITIES FOR OFFSET.—(A) Any overpay-
24 ment (as defined in section 6401 of the Internal Revenue

1 Code of 1986) by a person shall be reduced pursuant to
2 this subsection—

3 “(i) after such overpayment is reduced (I) with
4 respect to any liability for any internal revenue tax
5 on the part of the person who made the overpay-
6 ment; (II) with respect to past-due support (as de-
7 fined in section 464(c) of the Social Security Act);
8 (III) with respect to any past-due, legally enforce-
9 able debt owed to a Federal agency; and (IV) with
10 respect to any past-due, legally enforceable State in-
11 come tax obligation (as defined in section 6402(e) of
12 the Internal Revenue Code of 1986); and

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

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

22 “(3) NOTICE; CONSIDERATION OF EVIDENCE.—No
23 State may take action under this subsection on behalf of
24 a local government until the local government certifies to
25 the State that the local government—

1 “(A) has notified the person owing the past-
2 due, legally enforceable tax obligation by certified
3 mail with return receipt that the State (on behalf of
4 the local government) proposes to take action pursu-
5 ant to this section;

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

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

12 “(D) has satisfied such other conditions as the
13 Secretary may prescribe to ensure that the deter-
14 mination made under subparagraph (C) is valid and
15 that the local government has made reasonable ef-
16 forts to obtain payment of such tax obligation.

17 “(4) DEFINITION OF PAST-DUE, LEGALLY EN-
18 FORCEABLE TAX OBLIGATION.—In this subsection, the
19 term ‘past-due, legally enforceable tax obligation’ means
20 a tax debt—

21 “(A)(i) which resulted from—

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

1 “(II) a determination after an administra-
2 tive hearing which has determined an amount
3 of tax to be due; and

4 “(ii) which is no longer subject to judicial re-
5 view; or

6 “(B) which resulted from a tax which has been
7 assessed but not collected, the time for redetermina-
8 tion of which has expired, and which has not been
9 delinquent for more than 10 years.

10 “(5) REGULATIONS.—The Secretary shall issue regu-
11 lations prescribing the time and manner in which States
12 (on behalf of local governments) must submit notices of
13 past-due, legally enforceable tax obligations and the nec-
14 essary information that must be contained in or accom-
15 pany such notices. The regulations shall specify the types
16 of taxes and the minimum amount of debt to which the
17 reduction procedure established by paragraph (1) may be
18 applied. The regulations may require States (on behalf of
19 local governments) to pay a fee to reimburse the Secretary
20 for the cost of applying such procedure, and such fee may
21 be reimbursed by local governments to States in accord-
22 ance with applicable State law. Any fee paid to the Sec-
23 retary pursuant to the preceding sentence shall be used
24 to reimburse appropriations which bore all or part of the
25 cost of applying such procedure.

1 “(6) ERRONEOUS PAYMENT TO STATE.—Any State
2 receiving notice from the Secretary that an erroneous pay-
3 ment has been made to such State with respect to a notice
4 by the State on behalf of a local government under para-
5 graph (1) shall pay promptly to the Secretary, in accord-
6 ance with such regulations as the Secretary may prescribe,
7 an amount equal to the amount of such erroneous pay-
8 ment (without regard to whether any other amounts pay-
9 able to such State under such paragraph have been paid
10 to such State).

11 “(k) TREATMENT OF PAYMENTS MADE TO
12 STATES.—The Secretary may provide that, for the pur-
13 poses of determining interest, the payment of any amount
14 withheld under subsection (j) to a State (on behalf of a
15 local government) shall be treated as a payment to the
16 person or persons making the overpayment.”.

17 (b) DISCLOSURE OF CERTAIN INFORMATION TO
18 AGENCIES OF STATES REQUESTING REFUND OFFSETS
19 FOR PAST-DUE, LEGALLY ENFORCEABLE TAX OBLIGA-
20 TIONS.—Paragraph (10) of section 6103(l) of the Internal
21 Revenue Code of 1986 is amended—

22 (1) in the paragraph heading, by inserting after
23 “6402” the following: “OR UNDER SUBSECTION (j) OF
24 SECTION 3720A OF TITLE 31, UNITED STATES CODE”;

1 (2) in subparagraph (A), by inserting after
2 “6402” the following: “or subsection (j) of section
3 3720A of title 31, United States Code,”; and

4 (3) in subparagraph (B)—

5 (A) by striking “section 6402 is” and in-
6 serting “section 6402 or under subsection (j) of
7 section 3720A of title 31, United States Code,
8 is”; and

9 (B) by striking “section 6402.” and insert-
10 ing “section 6402 or under subsection (j) of
11 section 3720A of title 31, United States Code.”.

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