

110TH CONGRESS
2D SESSION

H. R. 7335

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

DECEMBER 10, 2008

Mr. MORAN of Virginia introduced the following bill; which was referred to the Committee on Oversight and 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) EXPANSION OF PROGRAM.—Section 3720A of
7 title 31, United States Code (relating to reduction of tax

1 refund by amount of debt) is amended by adding at the
 2 end the following:

3 “(j) COLLECTION OF PAST-DUE LEGALLY ENFORCE-
 4 ABLE LOCAL GOVERNMENT TAX OBLIGATIONS.—

5 “(1) IN GENERAL.—Upon receiving notice from
 6 any eligible State on behalf of a local government,
 7 or from any eligible local government, that a named
 8 person owes a past-due, legally enforceable tax obli-
 9 gation to the local government, the Secretary of the
 10 Treasury shall, under such conditions as may be
 11 prescribed by the Secretary, determine whether any
 12 amounts, as refunds of Federal taxes paid, are pay-
 13 able to such person. If the Secretary of the Treasury
 14 finds that any such amount is payable, he shall—

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

17 “(B) pay the amount of such reduction—

18 “(i) to the State for purposes of pay-
 19 ment by the State to the local government
 20 on behalf of which the State submitted the
 21 notice; or

22 “(ii) to the eligible local government
 23 that submitted the notice;

24 “(C) notify the State or eligible local gov-
 25 ernment of the person’s name, taxpayer identi-

1 fication number, address, and the amount col-
2 lected; and

3 “(D) notify the person due the refund that
4 the refund has been reduced by an amount nec-
5 essary to satisfy a past-due, legally enforceable
6 tax obligation.

7 “(2) PRIORITIES FOR OFFSET.—

8 “(A) Any overpayment (as defined in sec-
9 tion 6401 of the Internal Revenue Code of
10 1986) by a person shall be reduced pursuant to
11 this subsection—

12 “(i) after such overpayment is re-
13 duced (I) with respect to any liability for
14 any internal revenue tax on the part of the
15 person who made the overpayment; (II)
16 with respect to past-due support (as de-
17 fined in section 464(c) of the Social Secu-
18 rity Act); (III) with respect to any past-
19 due, legally enforceable debt owed to a
20 Federal agency; and (IV) with respect to
21 any past-due, legally enforceable State in-
22 come tax obligation (as defined in section
23 6402(e) of the Internal Revenue Code of
24 1986); and

1 “(ii) before such overpayment is cred-
2 ited to the future liability for any Federal
3 internal revenue tax of such person.

4 “(B) If the Secretary receives notice from
5 one or more States or eligible local governments
6 of more than one tax obligation subject to para-
7 graph (1) that is owed by such person to any
8 local government, any overpayment by such per-
9 son shall be applied against such debts in the
10 order in which such notices were filed.

11 “(3) NOTICE; CONSIDERATION OF EVIDENCE.—

12 “(A) No State may take action under this
13 subsection (on behalf of a local government)
14 until the local government certifies to the State
15 that the local government—

16 “(i) has notified the person owing the
17 past-due, legally enforceable tax obligation
18 by certified mail with return receipt that
19 the State (on behalf of the local govern-
20 ment) proposes to take action pursuant to
21 this section;

22 “(ii) has given such person at least 60
23 days to present evidence that all or part of
24 such liability is not past-due or not legally
25 enforceable;

1 “(iii) has considered any evidence pre-
2 sented by such person and has determined
3 that an amount of such debt is past-due
4 and legally enforceable; and

5 “(iv) has satisfied such other condi-
6 tions as the Secretary may prescribe to en-
7 sure that the determination made under
8 clause (iii) is valid and that the local gov-
9 ernment has made reasonable efforts to ob-
10 tain payment of such tax obligation.

11 “(B) No eligible local government may
12 take action under this subsection until the local
13 government—

14 “(i) has notified the person owing the
15 past-due, legally enforceable tax obligation
16 by certified mail with return receipt that
17 the local government proposes to take ac-
18 tion pursuant to this section;

19 “(ii) has given such person at least 60
20 days to present evidence that all or part of
21 such liability is not past-due or not legally
22 enforceable;

23 “(iii) has considered any evidence pre-
24 sented by such person and has determined

1 that an amount of such debt is past-due
2 and legally enforceable; and

3 “(iv) has satisfied such other condi-
4 tions as the Secretary may prescribe to en-
5 sure that the determination made under
6 clause (iii) is valid and that the local gov-
7 ernment has made reasonable efforts to ob-
8 tain payment of such tax obligation.

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

13 “(A)(i) which resulted from—

14 “(I) a judgment rendered by a court
15 of competent jurisdiction which has deter-
16 mined an amount of tax to be due; or

17 “(II) a determination after an admin-
18 istrative hearing which has determined an
19 amount of tax to be due; and

20 “(ii) which is no longer subject to judicial
21 review; or

22 “(B) which resulted from a tax which has
23 been assessed but not collected, the time for re-
24 determination of which has expired, and which

1 has not been delinquent for more than 10
2 years.

3 “(5) ELIGIBLE STATE.—In this subsection, the
4 term ‘eligible State’ means a State that participates
5 in the procedure applicable under section 6402(e) of
6 the Internal Revenue Code of 1986 (relating to col-
7 lection of past-due, legally enforceable State income
8 tax obligations).

9 “(6) ELIGIBLE LOCAL GOVERNMENT.—In this
10 subsection, the term ‘eligible local government’
11 means a municipality described in clause (ii) of sec-
12 tion 6103(b)(5)(A) of the Internal Revenue Code of
13 1986.

14 “(7) REGULATIONS.—The Secretary shall issue
15 regulations prescribing the time and manner in
16 which eligible States (on behalf of local govern-
17 ments) and eligible local governments must submit
18 notices of past-due, legally enforceable tax obliga-
19 tions and the necessary information that must be
20 contained in or accompany such notices. The regula-
21 tions shall specify the types of taxes and the min-
22 imum amount of debt to which the reduction proce-
23 dure established by paragraph (1) may be applied.
24 The regulations may require eligible States (on be-
25 half of local governments) and eligible local govern-

1 ments to pay a fee to reimburse the Secretary for
2 the cost of applying such procedure, and such fee
3 may be reimbursed by local governments to States in
4 accordance with applicable State law. Any fee paid
5 to the Secretary pursuant to the preceding sentence
6 shall be used to reimburse appropriations which bore
7 all or part of the cost of applying such procedure.

8 “(8) ERRONEOUS PAYMENT TO STATE OR
9 LOCAL GOVERNMENT.—Any eligible State or eligible
10 local government receiving notice from the Secretary
11 that an erroneous payment has been made to such
12 State or eligible local government with respect to a
13 notice by the State (on behalf of a local government)
14 or notice by the eligible local government under
15 paragraph (1) shall pay promptly to the Secretary,
16 in accordance with such regulations as the Secretary
17 may prescribe, an amount equal to the amount of
18 such erroneous payment (without regard to whether
19 any other amounts payable to such State or eligible
20 local government under such paragraph have been
21 paid to such State or eligible local government).

22 “(k) TREATMENT OF PAYMENTS MADE TO STATES
23 OR LOCAL GOVERNMENTS.—The Secretary may provide
24 that, for the purposes of determining interest, the pay-
25 ment of any amount withheld under subsection (j) to an

1 eligible State (on behalf of a local government) or an eligi-
 2 ble local government shall be treated as a payment to the
 3 person or persons making the overpayment.”.

4 (b) DISCLOSURE OF CERTAIN INFORMATION TO
 5 AGENCIES OF STATES REQUESTING REFUND OFFSETS
 6 FOR PAST-DUE, LEGALLY ENFORCEABLE TAX OBLIGA-
 7 TIONS.—Paragraph (10) of section 6103(l) of the Internal
 8 Revenue Code of 1986 is amended—

9 (1) in the paragraph heading, by inserting after
 10 “6402” the following: “OR UNDER SUBSECTION (j)
 11 OF SECTION 3720A OF TITLE 31, UNITED STATES
 12 CODE”;

13 (2) in subparagraph (A), by inserting after
 14 “6402” the following: “or subsection (j) of section
 15 3720A of title 31, United States Code,”; and

16 (3) in subparagraph (B)—

17 (A) by striking “section 6402 is” and in-
 18 serting “section 6402 or under subsection (j) of
 19 section 3720A of title 31, United States Code,
 20 is”; and

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

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