

# DEPARTMENT OF TAXATION

## 2009 Fiscal Impact Statement

1. **Patron** William H. Fralin, Jr.

2. **Bill Number** HB 1830

**House of Origin:**

       **Introduced**

       **Substitute**

       **Engrossed**

3. **Committee** Passed House and Senate

4. **Title** Setoff Debt Collection Act

**Second House:**

       **In Committee**

       **Substitute**

  X   **Enrolled**

### 5. **Summary/Purpose:**

This bill would allow local governments to collect delinquent local taxes from federal income tax refunds. TAX would assist the local governments in this collection.

This bill would also establish classifications that would be used to determine the priority when there are multiple claims to refunds. The priority classifications would be as follows:

- 1) Claims by TAX;
- 2) Claims filed by the Department of Social Services, Division of Child Support Enforcement;
- 3) Claims filed by any court or administrative unit of state government;
- 4) Claims filed by any county, city or town;
- 5) Claims filed by the Internal Revenue Service.

Claims within the same classification would be determined by the order in which the claimant agency filed a written notice of its intent to effect collection through setoff with TAX.

The provisions of this bill would not be effective until the effective date of legislation passed by the United States Congress that would allow local governments to collect delinquent local tax debts using offsets from federal income tax refunds.

6. **No Fiscal Impact:** (See Line 8.)

7. **Budget amendment necessary:** Yes.

ITEM(S): 270 C Department of Taxation

Page 277, after line 51, insert:

I. In the event that the United States Congress adopts legislation allowing local

governments, with the assistance of the Commonwealth, to collect delinquent local taxes using offsets from federal income taxes, the Department of Accounts shall provide a treasury loan to the Department of Taxation to finance the costs of modifying the agency's computer systems to implement this federal debt setoff program. This treasury loan shall be repaid from the proceeds collected from the offsets of federal income taxes collected on behalf of localities by the Department of Taxation.

## **8. Fiscal implications:**

### Administrative Impact

TAX would incur costs to make changes to its systems that would be required in order to implement this bill. The amount of the costs is dependent on the requirements imposed by the federal law if and when it is enacted. Similarly, the timing of these costs is dependent on when the federal law is enacted. TAX suggests that a budget amendment add language authorizing a Treasury Loan to fund the startup cost of this program when Congress passes related legislation, and authorizing TAX to retain the startup and operational costs from the local tax revenue collected through the program.

### Revenue Impact

This bill would have no impact on General Fund revenue.

## **9. Specific agency or political subdivisions affected:**

Department of Taxation  
All Localities

## **10. Technical amendment necessary: No.**

## **11. Other comments:**

### Current Law

Offset is the process of reducing a taxpayer's state or federal tax refund by the amount of a debt owed to another government entity. Virginia first introduced debt setoff in 1950. The current law requires TAX to check for outstanding debts with agencies of the Commonwealth, Virginia local governments, the Virginia court system and the Internal Revenue Service before issuing any refunds to taxpayers. If TAX discovers any such debt, all or part of the debtor taxpayer's refund may be withheld to help satisfy the debt. In addition, TAX submits state income tax debts to the U.S. Department of Treasury Offset Program (TOP). When a debt is submitted, the TOP will reduce the amount of a taxpayer's federal income tax refund by the amount of the debt.

When there are multiple claims to refunds, priority is currently given in the order in which a claimant agency has filed a written notice with TAX of its intention to effect collection through setoff. TAX has priority over all other claimant agencies for collection by setoff. Claims filed by any court or administrative unit of state government have priority over claims filed by any county, city or town. In addition, claims filed by any court,

administrative unit of state government, county, city or town have priority over claims filed by the Internal Revenue Service.

#### Proposed Change

This bill would allow local governments to collect delinquent local tax bills through setoff of the debtor's federal income tax refund. The bill would incorporate this authority into the existing debt setoff program managed by TAX.

This bill would also establish classifications that would be used to determine the priority when there are multiple claims to refunds. The priority classifications would be as follows:

- 6) Claims by TAX;
- 7) Claims filed by the Department of Social Services, Division of Child Support Enforcement;
- 8) Claims filed by any court or administrative unit of state government;
- 9) Claims filed by any county, city or town;
- 10) Claims filed by the Internal Revenue Service.

Claims within the same classification would be determined by the order in which the claimant agency filed a written notice of its intent to effect collection through setoff with TAX.

The bill would not be effective unless Congress passes federal legislation that allows local governments to collect delinquent local tax bills using offsets from such refunds. Such legislation has not yet been introduced in the 111<sup>th</sup> session of Congress.

#### Similar Bills

**Senate Bill 1292** is similar to this bill, but would limit claims filed by a county, city or town to delinquent local taxes.

cc : Secretary of Finance

Date: 3/12/2009 JKL  
HB1830FE161