

DEPARTMENT OF TAXATION

2009 Fiscal Impact Statement

1. **Patron** John S. Edwards

2. **Bill Number** SB 1292

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. In addition, claims filed by any county, city or town for an offset of a federal income tax refund would be limited to claims for delinquent local taxes.

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

3. The Department of Taxation is authorized to request and receive a Treasury Loan to fund the necessary start-up costs associated with the implementation of a federal debt setoff program for local taxes. The Department shall not incur such costs unless Congress enacts legislation that allows local governments, with the assistance of their state government, to collect delinquent local tax debts using offsets from federal income tax refunds. The Treasury Loan shall be repaid for these costs from the funds collected for localities through the federal debt setoff program.
4. The Department of Taxation is authorized to retain, as special revenue, its reasonable share of any funds collected for localities through a federal debt setoff program to reimburse the Department for any ongoing operational expenses to include local taxes in the federal debt setoff program.

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. In addition, claims filed by any county, city or town for an offset of a federal income tax refund would be limited to claims for delinquent local taxes.

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 111th session of Congress.

Similar Bills

House Bill 1830, as amended by the Senate, is similar to this bill, except that claims filed by any county, city or town for an offset of a federal income tax refund would not be limited to claims for delinquent local taxes.

cc : Secretary of Finance

Date: 2/24/2009 JKL
SB1292FER161