

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 757

To amend the Internal Revenue Code of 1986 to provide that the amount of an overpayment otherwise payable to any person shall be reduced by the amount of past-due, legally enforceable State tax obligations of such person.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 1995

Mr. JACOBS (for himself, Mr. McCRERY, and Mr. MORAN) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide that the amount of an overpayment otherwise payable to any person shall be reduced by the amount of past-due, legally enforceable State tax obligations of such person.

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. OFFSET OF PAST-DUE, LEGALLY ENFORCEABLE**

4                       **STATE TAX OBLIGATIONS AGAINST OVERPAY-**  
5                       **MENTS.**

6       (a) IN GENERAL.—Section 6402 of the Internal Rev-  
7       enue Code of 1986 is amended by redesignating sub-

1 sections (e) through (i) as subsections (f) through (j), re-  
2 spectively, and by inserting after subsection (d) the follow-  
3 ing new subsection:

4 “(e) COLLECTION OF PAST-DUE, LEGALLY EN-  
5 FORCEABLE STATE TAX OBLIGATIONS.—

6 “(1) IN GENERAL.—Upon receiving notice from  
7 any State that a named person owes a past-due, le-  
8 gally enforceable State tax obligation to such State,  
9 the Secretary shall, under such conditions as may be  
10 prescribed by the Secretary—

11 “(A) reduce the amount of any overpay-  
12 ment payable to such person by the amount of  
13 such State tax obligation;

14 “(B) pay the amount by which such over-  
15 payment is reduced under subparagraph (A) to  
16 such State and notify such State of such per-  
17 son’s name, taxpayer identification number, ad-  
18 dress, and the amount collected; and

19 “(C) notify the person making such over-  
20 payment that the overpayment has been re-  
21 duced by an amount necessary to satisfy a past-  
22 due, legally enforceable State tax obligation.

23 If an offset is made pursuant to a joint return, the  
24 notice under subparagraph (B) shall include the

1 names, taxpayer identification numbers and address-  
2 es of each person filing such return.

3 “(2) PRIORITIES FOR OFFSET.—Any overpay-  
4 ment by a person shall be reduced pursuant to this  
5 subsection—

6 “(A) after such overpayment is reduced  
7 pursuant to—

8 “(i) subsection (a) with respect to any  
9 liability for any internal revenue tax on the  
10 part of the person who made the overpay-  
11 ment,

12 “(ii) subsection (c) with respect to  
13 past-due support, and

14 “(iii) subsection (d) with respect to  
15 any past-due, legally enforceable debt owed  
16 to a Federal agency, and

17 “(B) before such overpayment is credited  
18 to the future liability for any Federal internal  
19 revenue tax of such person pursuant to sub-  
20 section (b).

21 If the Secretary receives notice from one or more  
22 State agencies of more than one debt subject to  
23 paragraph (1) that is owed by such person to such  
24 an agency, any overpayment by such person shall be

1 applied against such debts in the order in which  
2 such debts accrued.

3 “(3) NOTICE; CONSIDERATION OF EVIDENCE.—  
4 No State may take action under this subsection until  
5 such State—

6 “(A) notifies the person owing the past-due  
7 State tax liability that the State proposes to  
8 take action pursuant to this section,

9 “(B) gives such person at least 60 days to  
10 present evidence that all or part of such liability  
11 is not past-due or not legally enforceable,

12 “(C) considers any evidence presented by  
13 such person and determines that an amount of  
14 such debt is past-due and legally enforceable,  
15 and

16 “(D) satisfies such other conditions as the  
17 Secretary may prescribe to ensure that the de-  
18 termination made under subparagraph (C) is  
19 valid and that the State has made reasonable  
20 efforts to obtain payment of such State tax ob-  
21 ligation.

22 “(4) PAST-DUE, LEGALLY ENFORCEABLE STATE  
23 TAX OBLIGATION.—For purposes of this subsection,  
24 the term ‘past-due, legally enforceable State tax obli-  
25 gation’ means a debt—

1 “(A) (i) which resulted from—

2 “(I) a judgment rendered by a court  
3 of competent jurisdiction which has deter-  
4 mined an amount of State tax to be due,  
5 or

6 “(II) a determination after an admin-  
7 istrative hearing which has determined an  
8 amount of State tax to be due, and

9 “(ii) which is no longer subject to judicial  
10 review, or

11 “(B) which resulted from a State tax  
12 which has been assessed but not collected, the  
13 time for redetermination of which has expired,  
14 and which has not been delinquent for more  
15 than 10 years.

16 For purposes of this paragraph, the term ‘State tax’  
17 includes any local tax administered by the chief tax  
18 administration agency of the State.

19 “(5) REGULATIONS.—The Secretary shall issue  
20 regulations prescribing the time and manner in  
21 which States must submit notices of past-due, legally  
22 enforceable State tax obligations and the necessary  
23 information that must be contained in or accompany  
24 such notices. The regulations shall specify the mini-  
25 mum amount of debt to which the reduction proce-

1       dure established by paragraph (1) may be applied  
2       and that the State may pay a fee to reimburse the  
3       Secretary for the cost of applying such procedure.  
4       Any fee paid to the Secretary pursuant to the pre-  
5       ceding sentence shall be used to reimburse appro-  
6       priations which bore all or part of the cost of apply-  
7       ing such procedure.

8               “(6) ERRONEOUS PAYMENT TO STATE.—Any  
9       State receiving notice from the Secretary that an er-  
10      roneous payment has been made to such State under  
11      paragraph (1) shall pay promptly to the Secretary,  
12      in accordance with such regulations as the Secretary  
13      may prescribe, an amount equal to the amount of  
14      such erroneous payment (without regard to whether  
15      any other amounts payable to such State under such  
16      paragraph have been paid to such State).”

17      (b) DISCLOSURE OF CERTAIN INFORMATION TO  
18      STATES REQUESTING REFUND OFFSETS FOR PAST-DUE,  
19      LEGALLY ENFORCEABLE STATE TAX OBLIGATIONS.—

20              (1) Subsection (d) of section 6103 of such Code  
21      is amended by adding at the end thereof the follow-  
22      ing new paragraph:

23              “(5) DISCLOSURE OF CERTAIN INFORMATION  
24      TO STATES REQUESTING A REDUCTION UNDER SEC-  
25      TION 6402(e).—

1           “(A) RETURN INFORMATION FROM THE  
2 INTERNAL REVENUE SERVICE.—The Secretary  
3 may, upon written request, disclose to State tax  
4 officials or employees of a State seeking a re-  
5 duction under subsection (e) of section 6402—

6           “(i) the fact that a reduction has been  
7 made or has not been made under such  
8 subsection with respect to any person;

9           “(ii) the amount of such reduction;  
10 and

11           “(iii) taxpayer identifying information  
12 of the person against whom a reduction  
13 was made or not made.

14           “(B) RESTRICTION ON USE OF DISCLOSED  
15 INFORMATION.—Any State tax official or em-  
16 ployee of a State receiving return information  
17 under subparagraph (A) shall use such informa-  
18 tion only for the purposes of, and to the extent  
19 necessary in, establishing appropriate agency  
20 records or in defense of any litigation or admin-  
21 istrative procedure ensuing from a reduction  
22 made under section 6402(e).”

23           (2) Section 6103(p)(3)(A) of such Code is  
24 amended by striking out “(c), (e)” and inserting in  
25 lieu thereof “(c), (d)(5), (e)”.

1           (3) Clause (i) of section 6103(p)(3)(C) of such  
2 Code is amended by inserting “(other than para-  
3 graph (5))” after “(d)”.

4           (c) CONFORMING AMENDMENTS.—

5           (1) Subsection (a) of section 6402 of such Code  
6 is amended by striking “(c) and (d)” and inserting  
7 “(c), (d), and (e)”.

8           (2) Paragraph (2) of section 6402(d) of such  
9 Code is amended by striking “and before such over-  
10 payment” and inserting “and before such overpay-  
11 ment is reduced pursuant to subsection (e) and be-  
12 fore such overpayment”.

13           (3) Subsection (f) of section 6402 of such Code,  
14 as redesignated by subsection (a), is amended—

15                   (A) by striking “(c) or (d)” and inserting  
16 “(c), (d), or (e)”, and

17                   (B) by striking “Federal agency” and in-  
18 serting “Federal agency or State”.

19           (4) Subsection (h) of section 6402 of such  
20 Code, as redesignated by subsection (a), is amended  
21 by striking “subsection (c)” and inserting “sub-  
22 section (c) or (e)”.

23           (d) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to refunds payable under section

1 6402 of the Internal Revenue Code of 1986 after Decem-  
2 ber 31, 1995.

