

104TH CONGRESS
1ST SESSION

S. 1408

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.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 9, 1995

Mr. HATCH introduced the following bill; which was read twice and referred to the Committee on Finance

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 types
25 of State taxes and the minimum amount of debt to

1 which the reduction procedure established by para-
2 graph (1) may be applied. The regulations may re-
3 quire States to pay a fee to reimburse the Secretary
4 for the cost of applying such procedure. 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 “(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) Paragraph (10) of section 6103(l) of the In-
21 ternal Revenue Code of 1986 is amended by striking
22 “(c) or (d)” and inserting “(c), (d), or (e)”.

23 (2) The paragraph heading for such paragraph
24 (10) is amended by striking “SECTION 6402(C) OR

1 6402(D)” and inserting “SUBSECTION (C), (D), OR (E)
2 OF SECTION 6402”.

3 (c) CONFORMING AMENDMENTS.—

4 (1) Subsection (a) of section 6402 of the Inter-
5 nal Revenue Code of 1986 is amended by striking
6 “(c) and (d)” and inserting “(c), (d), and (e)”.

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

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

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

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

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

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

1 6402 of the Internal Revenue Code of 1986 after Decem-
2 ber 31, 1996.

