

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4138

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

MARCH 24, 1994

Mr. JACOBS (for himself, Mr. GRANDY, Ms. WATERS, Mr. MAZZOLI, Mr. FRANK of Massachusetts, Mr. BLUTE, Mr. WYNN, and Mr. BURTON of Indiana) 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,*

1 **SECTION 1. OFFSET OF PAST-DUE, LEGALLY ENFORCEABLE**  
2 **STATE TAX OBLIGATIONS AGAINST OVERPAY-**  
3 **MENTS.**

4 (a) IN GENERAL.—Section 6402 of the Internal Rev-  
5 enue Code of 1986 is amended by redesignating sub-  
6 sections (e) through (i) as subsections (f) through (j), re-  
7 spectively, and by inserting after subsection (d) the follow-  
8 ing new subsection:

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

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

16 “(A) reduce the amount of any overpay-  
17 ment payable to such person by the amount of  
18 such State tax obligation;

19 “(B) pay the amount by which such over-  
20 payment is reduced under subparagraph (A) to  
21 such State and notify such State of such per-  
22 son’s name, taxpayer identification number, ad-  
23 dress, and the amount collected; and

24 “(C) notify the person making such over-  
25 payment that the overpayment has been re-

1           duced by an amount necessary to satisfy a past-  
2           due, legally enforceable State tax obligation.

3           If an offset is made pursuant to a joint return, the  
4           notice under subparagraph (B) shall include the  
5           names, taxpayer identification numbers and address-  
6           es of each person filing such return.

7           “(2) PRIORITIES FOR OFFSET.—Any overpay-  
8           ment by a person shall be reduced pursuant to this  
9           subsection—

10           “(A) after such overpayment is reduced  
11           pursuant to—

12           “(i) subsection (a) with respect to any  
13           liability for any internal revenue tax on the  
14           part of the person who made the overpay-  
15           ment,

16           “(ii) subsection (c) with respect to  
17           past-due support (defined in section 464(c)  
18           of the Social Security Act) assigned to the  
19           State under section 402(a)(26) or  
20           471(a)(17) of the Social Security Act, and

21           “(iii) subsection (d) with respect to  
22           any past-due, legally enforceable debt owed  
23           to a Federal agency, and

24           “(B) before such overpayment is credited  
25           to—

1           “(i) past-due support (defined in sec-  
2           tion 464(c) of the Social Security Act) not  
3           assigned to a State pursuant to subsection  
4           (c), and

5           “(ii) the future liability for any Fed-  
6           eral internal revenue tax of such person  
7           pursuant to subsection (b).

8           If the Secretary receives notice from one or more  
9           State agencies of more than one debt subject to  
10          paragraph (1) that is owed by such person to such  
11          an agency, any overpayment by such person shall be  
12          applied against such debts in the order in which  
13          such debts accrued.

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

17                 “(A) notifies the person owing the past-due  
18                 State tax liability that the State proposes to  
19                 take action pursuant to this section,

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

23                 “(C) considers any evidence presented by  
24                 such person and determines that an amount of

1 such debt is past-due and legally enforceable,  
2 and

3 “(D) satisfies such other conditions as the  
4 Secretary may prescribe to ensure that the de-  
5 termination made under subparagraph (C) is  
6 valid and that the State has made reasonable  
7 efforts to obtain payment of such State tax ob-  
8 ligation.

9 “(4) PAST-DUE, LEGALLY ENFORCEABLE STATE  
10 TAX OBLIGATION.—For purposes of this subsection,  
11 the term ‘past-due, legally enforceable State tax obli-  
12 gation’ means a 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 State tax to be due,  
17 or

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

21 “(ii) which is no longer subject to judicial  
22 review, or

23 “(B) which resulted from a State tax  
24 which has been assessed but not collected, the  
25 time for redetermination of which has expired,

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

3           For purposes of this paragraph, the term ‘State tax’  
4           includes any local tax administered by the chief tax  
5           administration agency of the State.

6           “(5) REGULATIONS.—The Secretary shall issue  
7           regulations prescribing the time and manner in  
8           which States must submit notices of past-due, legally  
9           enforceable State tax obligations and the necessary  
10          information that must be contained in or accompany  
11          such notices. The regulations shall specify the mini-  
12          mum amount of debt to which the reduction proce-  
13          dure established by paragraph (1) may be applied  
14          and that the State may pay a fee to reimburse the  
15          Secretary for the cost of applying such procedure.  
16          Any fee paid to the Secretary pursuant to the pre-  
17          ceding sentence shall be used to reimburse appro-  
18          priations which bore all or part of the cost of apply-  
19          ing such procedure.

20          “(6) ERRONEOUS PAYMENT TO STATE.—Any  
21          State receiving notice from the Secretary that an er-  
22          roneous payment has been made to such State under  
23          paragraph (1) shall pay promptly to the Secretary,  
24          in accordance with such regulations as the Secretary  
25          may prescribe, an amount equal to the amount of

1 such erroneous payment (without regard to whether  
2 any other amounts payable to such State under such  
3 paragraph have been paid to such State).”

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

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

10 “(5) DISCLOSURE OF CERTAIN INFORMATION  
11 TO STATES REQUESTING A REDUCTION UNDER SEC-  
12 TION 6402(e).—

13 “(A) RETURN INFORMATION FROM THE  
14 INTERNAL REVENUE SERVICE.—The Secretary  
15 may, upon written request, disclose to State tax  
16 officials or employees of a State seeking a re-  
17 duction under subsection (e) of section 6402—

18 “(i) the fact that a reduction has been  
19 made or has not been made under such  
20 subsection with respect to any person;

21 “(ii) the amount of such reduction;  
22 and

23 “(iii) taxpayer identifying information  
24 of the person against whom a reduction  
25 was made or not made.

1           “(B) RESTRICTION ON USE OF DISCLOSED  
2           INFORMATION.—Any State tax official or em-  
3           ployee of a State receiving return information  
4           under subparagraph (A) shall use such informa-  
5           tion only for the purposes of, and to the extent  
6           necessary in, establishing appropriate agency  
7           records or in defense of any litigation or admin-  
8           istrative procedure ensuing from a reduction  
9           made under section 6402(e).”

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

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

16           (c) CONFORMING AMENDMENTS.—

17           (1) Subsection (a) of section 6402 of such Code  
18           is amended by striking “(c) and (d)” and inserting  
19           “(c), (d), and (e)”.

20           (2) Paragraph (2) of section 6402(d) of such  
21           Code is amended by striking “and before such over-  
22           payment” and inserting “and before such overpay-  
23           ment is reduced pursuant to subsection (e) and be-  
24           fore such overpayment”.

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

3                   (A) by striking “(c) or (d)” and inserting  
4                   “(c), (d), or (e)”, and

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

7           (4) Subsection (h) of section 6402 of such  
8           Code, as redesignated by subsection (a), is amended  
9           by striking “subsection (c)” and inserting “sub-  
10          section (c) or (e)”.

11          (d) EFFECTIVE DATE.—The amendments made by  
12          this section shall apply to refunds payable under section  
13          6402 of the Internal Revenue Code of 1986 after Decem-  
14          ber 31, 1994.

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