

H.R. – To amend Title 31, United States Code, to allow certain local tax debt to be collected through the reduction of Federal tax refunds

**Subcommittee on Government Management, Organization, and
Procurement
Committee on Oversight and Government Reform
United States House of Representatives**

**Francis X. O’Leary
Arlington County Treasurer
Arlington, Virginia**

**Delivered by Patricia A. Weth,
Deputy Treasurer for Litigation
Arlington, Virginia**

April 19, 2007

INTRODUCTION

I am Frank O'Leary. As an elected official, I have had the pleasure and privilege of serving as the Arlington County Treasurer in Virginia for the last twenty-three (23) years. As Treasurer, I am sworn to collect the taxes for the county and this is a duty that I take very seriously. The delinquency rate for Arlington County is 1%. In February 2002, Deloitte & Touche claimed "Arlington County is the most effective collector of local revenue in the United States." I look for progressive methods to collect the taxes so that our taxpayers will trust that everyone is paying his or her fair share and to uphold my commitment to the citizens of Arlington County, Virginia.

Thank you for holding this important hearing this afternoon. I am here today to support the early and favorable consideration of HR ____, which is legislation to amend title 31, United States Code, to allow certain local tax debt to be collected through the reduction of federal tax refunds. I appreciate this Subcommittee conducting the hearing on the proposed pilot program legislation, which will benefit your constituents and I look forward to responding to any question you might have.

Mr. Chairman, like the federal government, state and local government have tax gaps- not everyone remits the taxes they owe. Consequently, as the nation's Taxpayer Advocate reports, better coordination between all the levels of government could play an important role in retaining trust in our respective tax systems. We believe the legislation, on which we have worked with Treasury and the states, represents a very positive step. The more each level of government can efficiently and fairly collect the taxes that are owed, then the less pressure there will be to have to raise taxes or fees to make up for those who do not pay their fair share.

BACKGROUND INFORMATION ON THE FEDERAL OFFSET PROGRAM

Financial Management Services (hereinafter "FMS"), which is a division of the United States Department of the Treasury (hereinafter "Treasury"), administers the Federal Offset Program (hereinafter "Program"). The Program was created in the 1980's after legislation was passed to allow states to submit child support arrearages to the Treasury to offset the federal tax refunds of the "deadbeat dads." Through legislation, the Program was subsequently widened to allow federal government agencies to submit debts to the Treasury to offset the federal tax refunds of the delinquent citizens. On January, 1, 2000, legislation became effective to allow states to submit delinquent income tax debt to the Federal offset program. The refund is offset in the following order of priority: 1) past-due federal income tax, 2) past-due state child support, 3) past-due federal government agency debt, and 4) past-due state income tax.

In the Commonwealth of Virginia, local governments may submit delinquent tax debt to the Virginia Department of Taxation for offset of the taxpayer's state income tax refund. I thought if the states could collect delinquent income tax debt from the taxpayer's federal tax refund, then this Program could be an efficient collection tool for local government to collect delinquent taxes. The federal tax refund is approximately five (5) times larger than the Virginia state tax refund. An offset of one taxpayer's federal tax refund would pay in full many of that taxpayer's delinquent tax debts. With the state refund offset, in some cases the past-due tax debt must be submitted for several years before the tax debt is paid in full.

We have worked with bipartisan members such as the staff of Congressman Moran, Congressman Davis and Congressman Turner, numerous government associations, and the staff of Treasury to refine the proposal to ensure it will have no cost to the federal government and it would make our local government tax systems more fair and equitable. Without this legislation, local governments are forced to assess greater taxes and fees on the honest taxpayers to make up for the loss of revenue of the taxpayers who are not paying their taxes.

This bipartisan legislation has the support of county and city treasurers and tax collectors in all fifty states. This legislation has the official support of the National Association of Counties, the Government Finance Officers Association, the Treasurers' Association of Virginia, the United States Conference of Mayors, the Association of Public Treasurers of the United States and Canada, and the Conference of State Court Administrators.

PROPOSED PILOT PROGRAM

This legislation creates a pilot program allowing the local governments of six states (Illinois, Iowa, Louisiana, New York, Ohio and Virginia) to collect past-due legally enforceable tax debts through reduced federal tax refunds. The pilot program would be effective for the years 2009 and 2010. The Secretary of the Treasury may end the pilot program at any time. After December 31, 2010, the Secretary of the Treasury may expand the pilot program to all states. The pilot program will allow time for FMS and the Treasury to study the pros and cons of allowing local government tax debts in the Program.

The legislation requires a local government filing a claim to certify to its state tax authority that the tax obligation is past-due and legally enforceable. The state taxing authority for each state will act as the clearinghouse for the local government tax debts. Currently, thirty-seven (37) states and the District of Columbia participate in the

Program. States participating in the Program have the proper computer software and technology required by FMS. For these thirty-seven (37) states and the District of Columbia, participation in the pilot program would simply be a matter of forwarding the electronic files of the local government tax debt to FMS. The legislation will alleviate administrative burden to FMS by requiring the state taxing authority to act as the clearinghouse. In this manner, FMS may keep the same number of clients (i.e. states and federal government agencies) in the Program.

The claiming local government must certify to the state taxing authority that it has properly notified the taxpayer of the claim and give the taxpayer an opportunity to pay the debt. After the state taxing authority, on behalf of the local government, sends the debt information to the Treasury, the Treasury will reduce the taxpayer's federal tax overpayment refund by the appropriate amount and send that amount to the state taxing authority. The state taxing authority will send that amount to the claiming local government.

Under the proposed pilot program, if the taxpayer owes more than one kind of debt that is subject to offset, the debts would be paid in the following order:

- 1) any federal internal revenue tax liability,
- 2) past-due state child support
- 3) past-due federal government agency debt,
- 4) past-due state income tax, and
- 5) past-due local government tax debt.

Local government tax debt shall be paid after the state and federal interests are satisfied.

Before a local government tax debt may be sent to the state taxing authority, the debt must be delinquent in accordance with the state law. Local government treasurers and collectors are required to send bills and delinquency notices to notify the taxpayer of the outstanding tax debt. In Arlington County, a bill is sent to the taxpayer at least fourteen days prior to the due date in accordance with the Code of Virginia. When the taxpayer fails to pay by the due date, I will send at least two delinquency notices to the taxpayer and my Compliance Division will contact the delinquent taxpayer by telephone. Several attempts are made to get the delinquent tax debt paid. The delinquent taxpayer has been put on notice of this outstanding debt.

Under the proposed legislation for the pilot program, the local government must certify to the state taxing authority that the taxpayer owes a past-due, legally enforceable tax debt. Further, the local government must certify to the state taxing authority that the local government has

- 1) notified the person owing the tax debt by certified mail return receipt requested the state taxing authority, on behalf of the local government, shall submit the debt to the Program;
- 2) given the taxpayer at least sixty (60) days to present evidence that the tax debt is not past-due or legally enforceable; and
- 3) considered all evidence submitted by the taxpayer.

Once the local government has followed these requirements, then the local government submits the debt to the state taxing authority, which will pass it on to Treasury.

FISCAL IMPACT OF THE PILOT PROGRAM

This proposed pilot program allows local government to collect delinquent tax debt in an efficient, low-cost manner while increasing revenue for the localities. The proposed legislation authorizes Treasury and the state taxing authority (when allowed by the state law) to collect a fee from the local government to offset any costs associated with processing a claim. In accordance with the regulations, Treasury is paid \$25 by the state taxing authority for each taxpayer refund the state receives. The Treasury has set the fee of \$25 in the regulations. This fee is the monetary amount Treasury has determined that it requires to cover Treasury's administrative costs. This proposed pilot program will have no additional cost to the federal government. The local government shall pay the federal government the fee of \$25 for each offset refund in accordance with the regulations. The local government may reimburse the state government for the administrative cost pursuant to the state's law.

For the calendar year 2006, the Commonwealth of Virginia received over \$16 million for delinquent income tax debt from the Program. From the Program for the calendar year of 2006, New York received over \$31 million, Ohio received over \$11 million, California received \$1 million, Vermont received over \$500,000.00 and Pennsylvania received over \$5 million. I estimate that Virginia local governments would receive \$65 to \$70 million during for the first year of its participation in the Program. Virginia local government treasurers have many collection tools at their disposal as granted by the Virginia General Assembly. This pilot program would benefit all local governments, in especially those states with few collection tools for local government collectors.

If this legislation is passed, it will allow tax debt to be collected by the local government and will increase the local governments' revenue, thereby protecting the

honest taxpayer, who pays his taxes and pays timely, from increased taxes. This legislation has no cost to the federal or state government. Under this legislation, the only cost is to the delinquent taxpayer, who is finally made to pay his or her outstanding tax obligation.

ATTACHMENTS

I have attached to this written testimony several informative documents. The Question and Answers Regarding the Federal Offset Program, which was written as various questions arose and includes a sample certificate to be filed by the local government with the state taxing authority. The List of States Participating in the Federal Offset Program is attached. I have attached a report entitled Comparison of State Agencies and the District of Columbia's Net Collections from Treasury Offset Program for Calendar Years 2005 and 2006. This report from FMS shows the amount of funds collected for delinquent state income tax debt for each of the participating states for the calendar year 2005 and 2006.

CONCLUSION

This is a bipartisan, good-government bill. If the legislation is passed, it would allow federal, state and local government to work together. Local governments will be given an effective, powerful collections tool at no cost to the federal government or to the state governments participating in the Program. The state government and federal government will be compensated by the local government for the administrative burden. If the legislation is passed, local government would have a significant increase in revenue. The increase in revenue protects the honest taxpayers from an increase in taxes. Under this legislation, the only cost is to the delinquent taxpayer, who would finally be made to pay his or her outstanding tax obligation.

Good citizens, who pay their taxes, will appreciate that the federal government and the state government are assisting localities to help local government collect from the delinquents. Each citizen should share in paying his fair share of taxes.

QUESTIONS AND ANSWERS REGARDING THE FEDERAL OFFSET PROGRAM

Is it true that by allowing local governments to participate in the Federal Offset Program, a huge administrative burden will be passed on to Financial Management Service? (Financial Management Service is the division of the Department of Treasury which handles the Federal Offset Program.)

No, the program is deliberately designed not to be burdensome to Financial Management Service. Under the proposed legislation, the local governments will send their tax debt information to the appropriate state taxing authority. The state taxing authority will be the clearing house for the local governments. Thirty-eight states including Washington DC are currently participating in the Federal Offset Program and have the required computer programs in place. Nineteen states allow their localities to send their debt information to the state taxing authority to participate in the state's tax offset program. For nineteen states, it will be a simple matter of passing the information onto the Financial Management Services.

Will allowing local governments to participate in the Federal Offset Program increase the numbers of clients from its current seventy to potentially thousands of localities, thereby placing a huge administrative burden on Financial Management Service?

No, the client base stays the same. The state taxing authority will act as the clearing house for the local governments. All tax debt will be filtered through the participating state taxing authorities. A local government can participate in the program only if its state is involved in the Federal Offset Program.

Is it true that by allowing local governments to participate in the Federal Offset Program, a huge administrative burden will be passed on to the state taxing authority?

This is not true. The local governments will send their tax debt information to the state taxing authority, as they already do. The state taxing authority will be the clearing house for the local governments. Thirty-eight states are already participating in the Federal Offset Program and have the required computer programs in place. Under the current program, all data and funds are sent electronically, minimizing the administrative burden.

What does the state get out of the deal?

The state may charge a fee to the locality for simply passing the tax debt information to Financial Management Service. The amount a state may charge a locality varies from state to state. It depends upon what amount is allowed under the applicable state code.

Will the states be responsible for the fee due to the Financial Management Service for each account match?

The \$25.00 fee, due to Financial Management Service, for each account match, will be paid by the local government. In addition, the states will receive the fee that they normally charge localities for collection under the existing state debt offset program.

Are the state taxing authorities required to send out notices to taxpayers via certified mail? Such a mailing process could be time-consuming and cost the states significant amounts.

No, the states will not be required to send out the notices via certified mail. In accordance with the proposed statute, the local governments **must** send out the certified mail notices on each delinquent tax account submitted to the Federal Offset Program.

By allowing local governments to participate in the Federal Offset Program, will the Department of Treasury be disclosing any information to the local governments?

No, the only information given to the local governments will be the account number, name of the taxpayer and the amount of the match on the refund. No other information will be provided to the local governments.

Can the local governments attempt to collect for parking tickets, library fees, park and recreation fees, court fees, and other miscellaneous debt?

No. The local governments can submit only delinquent tax debt.

Will allowing local governments to participate in the Federal Offset Program significantly lower the amount of funds that the federal government, states' child support agencies and the state taxing authorities can collect?

Absolutely not. The proposed legislation places the local governments in the fifth tier in order of payment from the federal tax refund. Four other government entities must be paid before the local governments can receive any funds. The order of priority is as follows: 1) federal income tax, 2) state child support agencies, 3) federal government agencies, 4) state income tax, and, finally, 5) local government delinquent taxes.

Can a local government participate in the Federal Offset Program if its state is not participating in the Federal Offset Program?

No. A local government can only participate in the Federal Offset Program if its state is participating in the program. The local governments must rely on the computer programs and systems that the state taxing authorities have implemented for participation in the Federal Offset Program.

When will local government send the tax account for participation in the Federal Offset Program?

Tax accounts will not be submitted for collection by the Federal Offset Program until, at least, sixty days after the certified mail notice is mailed to the debtor, in accordance with the statute. This time period allows the citizen ample time to successfully dispute or pay the tax bill. No state taxing authority will submit a local government tax debt to Financial Management Service until the sixty day period from the certified mailing to the taxpayer has elapsed.

Can a citizen dispute or pay a bill after the certified notice has been mailed to them and after the account has been sent for participation in the Federal Offset Program?

Absolutely.

Is due process afforded the citizens under this proposed legislation allowing local governments to send accounts to Financial Management Service for participation in the Federal Offset Program?

Yes. The local government must mail a tax bill and at least two delinquency notices and attempts, at least, one phone call to the delinquent taxpayer. Under the proposed legislation, the local government must send to the delinquent taxpayer a certified mail notice that the taxpayer's delinquent account will be submitted to the Financial Management Services for involvement in the Federal Offset Program. Following this certified mail notice, a taxpayer has sixty days to successfully dispute or pay the tax bill.

How will the state taxing authority know that the local government complied with the certified mailing requirement of the statute?

The local government must certify in writing to the state taxing authority that it has complied with the statute requirements prior to sending an account to the taxing authority for involvement in the Federal Offset Program. A sample certification is attached hereto.

What happens if a citizen's federal refund is offset and the money is not owed by the citizen to the local government?

The Financial Management Service will reimburse the citizen. The state taxing authority will reimburse Financial Management Service. Either, the local government will refund the money to the state taxing authority (including applicable fees) or the state will withhold the amount due to the locality in future payments. However, Financial Management Services and the State Taxing Authority will keep the administrative fees paid to them by the local government. The states may have to pay interest on the citizen's reimbursement, but Financial Management Services will not have to pay interest on a reimbursement. The states may pass the interest payment on to the locality.

Are the administrative fees paid to Financial Management Service and the state taxing authority refundable to the local government?

No, the fees are not refundable under any circumstances.

Will the Department of Treasury's reputation be affected by allowing the local governments to participate in the Federal Offset Program?

By allowing the local governments to participate in the Federal Offset Program, the Department of Treasury is making good tax policy. Good citizens, who pay their taxes and vote, will appreciate that the federal government is assisting localities to collect from the scofflaws. Each citizen should share in paying his fair share of taxes. "Taxes are the lifeblood of government, and their prompt and certain availability an imperious need." U.S. Supreme Court Justice Roberts in Bull v. United States, 295 U.S. 247 (1935).

Is it fair to the citizens to allow local governments to participate in the Federal Offset Program?

Yes. It is particularly fair to the overwhelming majority of citizens, who pay their taxes on time, because it helps to collect from the citizens who are not paying their share of the tax burden. It is also fair to the delinquent taxpayer or non taxpayer, because due process applies at all stages. Prior to any account being sent to the offset program, the local government mails a bill and, at least, two delinquency notices and attempts a phone call. When the local government sends the account to the Federal Offset Program, the local government must send a notice out via certified mail. At this point, the delinquent taxpayer or non taxpayer has been contacted at least five times, over more than ninety days, and has had ample opportunity to pay or dispute the tax bill.

What is the fiscal impact of the Commonwealth of Virginia participation in the Federal Tax Offset program?

For Virginia localities, it is estimated that it will bring in between **65-70 million dollars** in revenue. Furthermore, the Commonwealth would receive some of these funds. Each locality would be required to pay the Commonwealth of Virginia Department of Taxation a fee for passing the tax debt information onto Financial Management Service.

**Certification of Compliance
with the
Federal Offset Program for Local Taxes**

To The Commonwealth of Virginia Department of Taxation:

I, _____, the duly elected or appointed treasurer or finance officer of _____ do attest as follows:

- 1) The data file being submitted reflects only local taxes, all of which were assessed within the last ten years.
- 2) No debtor is associated with a total tax liability of less than \$50.00.
- 3) Each taxpayer listed was mailed certified notice no later than _____ and should not be submitted to the Federal Offset Program prior to _____, the difference between these two dates being greater than sixty (60) days.
- 4) Each taxpayer listed has been mailed: a tax assessment, two delinquency notices, and, at least, one telephone call has been attempted.
- 5) In the event of erroneous collection, all associated fees charged by the federal and/or state government(s) shall be paid by my jurisdiction.
- 6) All information concerning taxpayers shall be regarded as strictly confidential.

I recognize that adherence to all of the above strictures is subject to audit by the Commonwealth of Virginia and/or the Department of Treasury and that any violation, thereof, may result in my locality being terminated from the program.

Signed under my hand this ____ day of _____, _____.

(Signature)

(Title)

Federal Offset Program

List of Participating States

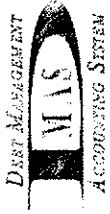
Alabama	Missouri
Arizona*	Montana
Arkansas*	Nebraska
California*	New Jersey*
Colorado	New Mexico
Delaware	New York
Georgia	North Carolina*
Hawaii	Ohio
Idaho	Oklahoma
Illinois	Oregon
Indiana*	Pennsylvania
Iowa**	Rhode Island**
Kansas*	South Carolina*
Kentucky	Utah
Louisiana	Vermont
Maine*	Virginia*
Maryland*	Washington, DC*
Massachusetts*	West Virginia*
Minnesota	Wisconsin*

*Indicates states that also participate in State offset programs.

**Participates in a State offset program, but not for local taxes.

States that do not participate in the Federal Offset Program, but use a State offset program include: Connecticut, Mississippi, and South Dakota.

The following states do not have a personal income tax: Alaska, Florida, Nevada, New Hampshire, South Dakota, Tennessee, Texas, Washington and Wyoming.



Comparison of State Agencies' and the District of Columbia's Net Collections from Treasury Offset Program for Calendar Years 2005 and 2006

Department	DECEMBER 2006		DECEMBER 2005		2005-2006 Monthly Differences		Percentage Change %		DECEMBER 2006		DECEMBER 2005		2005-2006 YTD Differences		Percentage Change %	
									YTD		YTD			YTD		
ALABAMA	\$10,049	\$12,200	-\$2,151				-17.63%	\$4,671,183	\$3,219,748	\$1,451,435						45.08%
ARKANSAS	\$3,066	\$2,801	\$265				9.46%	\$121,650	\$308,340	-\$186,690						-60.55%
ARIZONA	\$12,685	\$10,808	\$1,877				17.37%	\$3,604,259	\$1,556,917	\$2,047,342						131.50%
CALIFORNIA	\$19,897	\$28,546	-\$8,650				-30.30%	\$1,150,112	\$1,519,949	-\$369,838						-24.33%
COLORADO	\$732	-\$246	\$979				-397.10%	\$43,268	\$27,184	\$16,084						59.17%
WASHINGTON DC	\$35,362	\$26,145	\$9,217				35.26%	\$3,733,303	\$3,805,254	-\$71,951						-1.89%
DELAWARE	\$6,504	\$25,700	-\$19,196				-74.69%	\$1,550,716	\$1,850,958	-\$300,242						-16.22%
GEORGIA	\$216,334	\$246,718	-\$30,383				-12.32%	\$20,397,710	\$22,269,663	-\$1,871,952						-8.41%
HAWAII	\$11,853	\$15,670	-\$3,817				-24.36%	\$687,805	\$506,005	\$181,800						35.93%
IOWA	\$9,162	\$11,944	-\$2,782				-23.29%	\$1,501,390	\$2,143,190	-\$641,800						-29.95%
IDAHO	\$14,522	\$5,314	\$9,208				173.27%	\$509,342	\$567,752	-\$58,410						-10.29%
ILLINOIS	\$133,416	\$68,400	\$65,017				95.05%	\$11,400,923	\$10,695,783	\$705,140						6.59%
INDIANA	\$40,024	\$6,445	\$33,579				521.04%	\$3,792,298	\$5,218,963	-\$1,426,664						-27.34%
KANSAS	\$80,409	\$30,116	\$50,293				167.00%	\$3,059,135	\$2,586,418	\$472,717						18.28%
KENTUCKY	\$64,559	\$131,702	-\$67,143				-50.98%	\$5,663,470	\$6,820,315	-\$1,156,846						-16.96%
LOUISIANA	\$150,265	\$152,810	-\$2,545				-1.67%	\$9,892,371	\$33,665,891	-\$23,773,520						-70.62%
MASSACHUSETTS	\$66,633	\$64,782	\$1,850				2.86%	\$3,465,778	\$3,524,420	-\$58,642						-1.66%
MARYLAND	\$228,911	\$219,852	\$9,058				4.12%	\$22,136,148	\$22,751,066	-\$614,919						-2.70%
MAINE	\$55,123	\$8,355	\$46,768				559.76%	\$1,560,782	\$4,924,827	-\$3,364,046						-68.31%
MINNESOTA	\$57,739	\$39,264	\$18,475				47.05%	\$3,631,932	\$4,523,988	-\$892,055						-19.72%
MISSOURI	\$104,688	\$59,461	\$45,227				76.06%	\$8,694,833	\$8,530,172	\$164,662						1.93%
MONTANA	\$2,416	\$0	\$2,416				0.00%	\$310,694	\$41,289	\$269,405						652.48%
NORTH CAROLINA	\$91,755	\$90,427	\$1,328				1.47%	\$8,953,827	\$7,282,404	\$1,671,422						22.95%
NEBRASKA	\$4,397	\$3,060	\$1,337				43.68%	\$741,601	\$831,039	-\$89,439						-10.76%
NEW JERSEY	\$78,645	\$67,588	\$11,057				16.36%	\$6,479,627	\$4,436,858	\$2,042,769						46.04%
NEW MEXICO	\$14,510	\$11,706	\$2,804				23.95%	\$1,578,012	\$851,538	\$726,475						85.31%
NEW YORK	\$401,663	\$242,068	\$159,595				65.93%	\$31,353,664	\$31,375,603	-\$21,939						-0.07%
OHIO	\$105,022	\$98,743	\$6,279				6.36%	\$11,297,015	\$10,757,554	\$539,461						5.01%
OKLAHOMA	\$93,918	\$126,587	-\$32,669				-25.81%	\$5,667,830	\$6,267,154	-\$599,324						-9.56%
OREGON	\$63,191	\$91,541	-\$28,350				-30.97%	\$6,902,905	\$6,058,131	\$844,774						13.94%
PENNSYLVANIA	\$66,872	\$42,548	\$24,324				57.17%	\$5,574,530	\$6,355,195	-\$780,665						-12.28%
RHODE ISLAND	\$1,925	\$7,786	-\$5,861				0.00%	\$912,275	\$981,991	-\$69,716						-7.10%
SOUTH CAROLINA	\$25,762	\$36,893	-\$11,132				-30.17%	\$3,101,728	\$1,462,027	\$1,639,700						112.15%
UTAH	\$34,508	\$27,967	\$6,541				23.39%	\$2,367,260	\$1,939,695	\$427,565						22.04%
VIRGINIA	\$400,270	\$168,093	\$232,176				138.12%	\$16,216,833	\$9,775,076	\$6,441,757						65.90%
VERMONT	\$8,978	\$4,330	\$4,648				107.33%	\$568,636	\$504,215	\$64,421						12.78%
WISCONSIN	\$50,657	\$12,691	\$37,965				299.14%	\$2,449,874	\$4,275,048	-\$1,825,175						-42.69%
WEST VIRGINIA	\$9,632	\$27,436	-\$17,804				-64.89%	\$2,506,480	\$3,104,199	-\$597,719						-19.26%
Total	\$2,776,053	\$2,226,251	\$549,802				24.70%	\$218,251,199	\$237,315,821	-\$19,064,621						-8.03%