



BILL: SB 259 A
Committee: House Committee on Revenue
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Treasury Offset Program for Unemployment Insurance

Introduction:

The Oregon Employment Department (OED) uses many tools to recover overpaid unemployment insurance (UI) benefits. A new tool, the Treasury Offset Program (TOP), is available to permit OED to intercept federal income tax refunds and apply them to overpayment debts. Although OED was prepared to refer eligible debts to the TOP program by March 1, 2013, this cannot be done without explicit statutory authority.

SB 259 A gives OED the statutory authority to enter into an agreement with the Department of the Treasury to participate in TOP. It also permits OED to pass on to debtors the fees the Department of the Treasury charges for participating in this program, and to pass on fees the Oregon Department of Revenue (DOR) charges to OED for participating in a similar state program.

Discussion:

UI benefits are paid to eligible workers out of the UI Trust Fund. UI benefits are funded by an employer paid payroll tax. If someone receives benefits to which they were not entitled, OED has a responsibility to recover those benefits. Unrecovered overpayments may result in higher UI tax rates for Oregon employers.

DOR Set Off Individual Liability Program

Since 1979, OED has participated in the SOIL (Set Off Individual Liability) program with the Oregon Department of Revenue. OED refers certain types of delinquent UI overpayment debts to DOR. DOR redirects state tax refunds a debtor would normally receive to OED to pay off the overpayment debt.

DOR charges OED 10% of the amount it recovers. In 2012, OED recovered \$1.9 million in overpayments through the SOIL program and paid DOR more than \$180,000 in fees. The DOR fee is currently paid from the Employment Department Special Fraud Control Fund (Fund), which is dedicated to preventing, detecting and recovering overpayments. While this is an appropriate use of the Fund, it means those resources are not available for other OED activities to prevent, detect and recover overpayments. In addition, SB 191, which makes changes to the Fund to keep Oregon law consistent with federal law, will result in a significant reduction in the Fund.

SB 259 A permits OED to pass on the collection fee charged by DOR for SOIL collections to the debtor. This will allow the Fund, which is facing decreased funding, to be used for other activities to prevent, detect and recover overpayments.

Federal Treasury Offset Program

The federal government has a Treasury Offset Program that permits states to intercept federal income tax refunds in order to pay off certain state debts owed by taxpayers. This is essentially a federal version of the SOIL program. Oregon's DOR, Division of Child Support and Department of Human Services have participated in TOP for many years.

The federal government recently expanded the TOP program, making it possible starting in 2011 for state UI agencies to participate. At least 30 state UI programs are using TOP. State UI programs have collected, on average, more than 11% of the debts they have referred to TOP. Most of these collected amounts will recover state paid benefits, although some are from federally funded UI benefit extension programs that were also defrauded. Money recovered from federally funded overpayments is returned to the federal government.

OED Participation in TOP

SB 259 A would permit Oregon to participate in the TOP program as a way to collect overpayments caused by fraud. OED has over 14,000 accounts, representing about \$55 million in fraudulent overpayments, that can be referred to TOP for collection in 2013.

To refer a debt to TOP, states must provide procedural safeguards. Before a debt could be referred to TOP, OED will:

- Provide the person written notice that they were overpaid benefits as a result of fraud;
- Provide an opportunity for a hearing at no charge before an administrative law judge to challenge that decision;
- Provide an opportunity for a review of the administrative law judge's decision before the Employment Appeals Board, also at no charge;
- Provide an opportunity for that decision to be challenged before the Court of Appeals;
- Ensure the debt has been owed for at least 180 days;
- Give at least 60 days advance written notice to the person who committed fraud of our intent to refer the matter to TOP; and
- Provide another opportunity during that 60 day time period for the person to challenge the validity of the debt or that the debt can be collected through TOP.

OED will not refer a debt to TOP if the debtor establishes and follows a payment plan. In January 2013, OED notified people who committed fraud and owe money that if authorizing legislation passes, OED will refer their debts to the TOP program. Similar to other states' experience, OED has seen a significant increase in people making voluntary payments since the notification was sent out.

SB 259 A requires a 60-day notice to be issued after the legislation becomes effective, giving debtors another opportunity to make voluntary payment arrangements or to contest the debt. SB 259 A also requires OED to adopt rules describing the advance notice provided to debtors and the procedures people can use to challenge whether their debt may be collected through the TOP program.

The Department of the Treasury, like DOR, charges a fee for using its program. The current TOP fee is \$17 for each debt on which OED collects money. SB 259 A would permit Oregon to enter into an agreement with the federal government to participate in TOP and to pass this fee on to the person who caused the debt.

OED is ready to implement TOP. OED anticipates collecting approximately \$9 million through TOP in the 2013-15 biennium if implementation begins by June 2013.

Summary:

SB 259 A permits Oregon to participate in the federal Treasury Offset Program. TOP allows OED to recover UI benefits obtained fraudulently by intercepting federal income tax refunds and encouraging people to enter into voluntary repayment plans. This provides an additional, important tool for the OED to protect the UI Trust Fund and minimize the UI tax burden on Oregon employers. SB 259 A permits fees the federal government charges for participating in TOP to be passed on to the person who caused the overpayment. SB 259 A also permits fees the Oregon Department of Revenue charges for participating in the SOIL program to be passed on to the debtor.

Attachments:

1. Excerpt from U.S. Department of the Treasury's *March Offsets Matter* newsletter shows results of TOP collections for UI programs.



TOP Collection Updates

State Collections (10/01/2012 - 02/28/2013)

Note: With this issue we will be changing our collection updates from a Calendar Year to a Fiscal Year approach. The Federal government's Fiscal Year runs from October 1 to September 30.

State Unemployment Insurance Compensation Debt Collection Totals

STATE NAME	OFFSET COUNT	NET COLLECTION AMOUNT
Alabama	9,803	\$7,617,006
Arizona	18,454	\$14,117,536
Arkansas	16,260	\$14,597,928
California	747	\$666,701
Colorado	1,701	\$2,218,207
Connecticut	3,587	\$3,071,200
District of Columbia	813	\$1,379,551
Florida	14,643	\$11,950,927
Georgia	1,594	\$1,678,739
Idaho	228	\$533,672
Illinois	12,463	\$22,813,720
Louisiana	4,399	\$5,974,619
Kentucky	4,268	\$4,662,876
Maryland	6,156	\$7,130,816
Michigan	3,344	\$5,031,299
Minnesota	3,553	\$8,925,355
Mississippi	15,434	\$6,895,905
Missouri	9,263	\$12,636,211
Nebraska	963	\$750,494
Nevada	82	\$252,525
New Hampshire	1,166	\$1,304,811
New York	13,009	\$13,941,790
North Carolina	7,855	\$6,341,023
Pennsylvania	4,575	\$10,082,983
South Carolina	5,193	\$8,168,160
South Dakota	794	\$577,422
Tennessee	12,402	\$11,337,465
Utah	3,020	\$3,651,529
West Virginia	2,057	\$1,608,070
Wisconsin	10,171	\$7,656,239
Total	187,997	\$197,574,780

The Unemployment Insurance Compensation (UIC) program allows for the offset of federal tax refund payments to collect UIC debts due to fraud or a person's failure to report earnings.

As of February 28, 2013, California, Colorado, Florida, Idaho, Kentucky, Missouri, Nebraska, Nevada, North Carolina, and Utah have joined the 19 states and the District of Columbia that were submitting debts in calendar year 2012.

As of February 28, 2013, Illinois has recovered the most funds at \$22.8 million. Illinois is followed by Arkansas and Arizona, which have recovered \$14.6 million and \$14.1 million, respectively. The UIC program has recovered a total of \$197.6 million as of February 28, 2013.

The Fiscal Service continues to encourage states to begin participating in this program, and those states that have not yet begun to submit their UIC debts to TOP for collection to begin doing so as soon as they can. This program continues to demonstrate significant recovery opportunities.

For further information regarding UIC TOP, please contact Sheila Moss at (202) 874-6937 or Sheila.Moss@fms.treas.gov, or Becky Park at (202) 874-9451 or Becky.Park@fms.treas.gov.

State Reciprocal Program Collections

STATE NAME	OFFSET COUNT	NET COLLECTION AMOUNT
Kentucky	1,949	\$3,972,235
Maryland	1,905	\$2,419,784
Minnesota	647	\$1,148,788
New Jersey	1,153	\$1,372,326
New York	1,131	\$1,398,362
Wisconsin	488	\$481,308
Total	7,273	\$10,792,803

The State Reciprocal Program (SRP) allows states to enter into reciprocal agreements with Treasury to collect unpaid state debt by offset of federal non-tax payments. In return, states agree to offset state payments to debtors who owe delinquent debts to the federal government.

From October 1, 2012 to February 28, 2013, Kentucky has achieved the most recovered funds through SRP this Fiscal Year with total collections of \$4 million. Maryland is second with \$2.4 million recovered in this Fiscal Year. In return, SRP participating states recovered \$13.1 million for the federal government.

Given SRP's promising recovery rates, TOP asks any states with interest in the program to contact us as soon as possible regarding assistance we can provide in implementing the program in a way that works best for the state.

For further information regarding SRP, please contact David Burgess at (202) 874-7182 or David.Burgess@fms.treas.gov.

Top 5 State Income Tax Offset Collections

STATE NAME	OFFSET COUNT	NET COLLECTION AMOUNT
Georgia	46,055	\$31,756,842
New York	45,340	\$31,307,290
California	23,702	\$23,422,904
Maryland	23,722	\$21,295,624
Illinois	42,133	\$14,506,333

Georgia has recovered the most funds through the State Income Tax Program as of February 28, 2012, with recovery of \$31.8 million. New York has recovered the second most funds with \$31.3 million.

For further information regarding the State Income Tax Program, please contact David Burgess at (202) 874-7182.

U.S. Treasury

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