



BILL: SB 259
Committee: Senate Finance and Revenue
Date: February 18, 2013
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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 certain overpayment debts. Although OED will be prepared to refer eligible debts to the TOP program by the end of February 2013, this cannot be done without explicit statutory authority.

SB 259 gives OED the statutory authority to enter into an agreement with the Department of the Treasury to participate in TOP starting with the 2012 tax year. 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 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. Over 20 state UI programs have begun using TOP and others are in the process of doing so. State UI programs have collected, on average, more than 11% of the debts they have referred to TOP. Most of these collected amounts are to recover state paid benefits, although some represent federally funded UI benefit extension programs that were also defrauded. Money recovered from federally funded overpayments are returned to the federal government.

OED Participation in TOP

SB 259 would permit Oregon to participate in the TOP program. TOP permits UI programs to refer debts caused by fraud or by individuals not reporting their earnings, and UI tax debts owed by individuals. The greatest return is in pursuing collection of overpayments caused by fraud. In the near term, OED intends to use TOP to pursue overpayments only 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 free hearing before an administrative law judge to challenge that decision;
- Provide an opportunity for a free review of the administrative law judge's decision before the Employment Appeals Board;
- 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 for the person to challenge the validity of the debt.

OED will not refer a debt to TOP if the debtor establishes and follows a payment plan. In January 2013, OED notified people who have 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 60-day notifications were sent out.

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 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 prepared to implement TOP this year. The earlier we implement, the greater the collections we will receive in 2013. OED anticipates collecting approximately \$2.6 million through TOP in the 2011-13 biennium if implementation begins in early March 2013.

Summary:

SB 259 permits Oregon to participate in the federal Treasury Offset Program. TOP is a valuable tool for OED to use to recover UI benefits obtained by fraud that are not being repaid, by intercepting federal income tax refunds and by encouraging more people to enter into voluntary repayment plans. This provides an additional, important tool for the Employment Department to protect the UI Trust Fund, minimizing the UI tax burden on Oregon employers. SB 259 permits fees the federal government charges for participating in TOP to be passed on to the person who caused the overpayment. SB 259 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 January *Offsets Matter* newsletter shows results of TOP collections for UI program in 2012.



TOP Collection Updates

State Collections (01/01/2012 - 12/31/2012)

State Unemployment Insurance Compensation Debt Collection Totals

STATE NAME	OFFSET COUNT	NET COLLECTION AMOUNT	TOTAL AMOUNT OF DEBT REFERRED	PERCENT OF DEBT COLLECTED
Alabama	4,972	\$3,631,792	\$18,100,039	20.07%
Arizona	8,978	\$5,372,569	\$85,618,651	6.27%
Arkansas	346	\$257,840	\$65,688,581	0.39%
Connecticut	1,653	\$1,058,452	\$24,119,445	4.39%
District of Columbia	296	\$358,513	\$8,360,871	4.29%
Georgia	243	\$188,384	\$15,508,863	1.21%
Illinois	21,142	\$21,142	\$210,897,837	16.81%
Louisiana	46	\$63,392	\$24,033,005	0.26%
Maryland	11,426	\$16,468,152	\$99,551,103	16.54%
Michigan	2,175	\$5,591,231	\$104,487,236	5.35%
Minnesota	65	\$106,288	\$111,926,750	0.09%
Mississippi	23,049	\$14,579,094	\$47,787,611	30.51%
New Hampshire	25	\$21,856	\$8,234,002	0.27%
New York	29,230	\$29,848,406	\$145,135,869	20.57%
Pennsylvania	4,092	\$9,534,640	\$49,790,488	19.18%
South Carolina	8	\$4,903	\$38,940,953	0.01%
South Dakota	112	\$72,651	\$2,742,377	2.65%
Tennessee	145	\$128,234	\$42,790,488	0.30%
West Virginia	370	\$223,761	\$4,749,148	4.71%
Wisconsin	8,068	\$11,674,318	\$87,298,004	13.37%
Total	116,441	\$134,631,777	\$1,195,674,226	11.26%

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.

On Dec. 7, 2012, the state of South Carolina joined the TOP UIC program, making it the last state to join the program in 2012. As of Dec. 31, 2012, South Carolina has already collected \$4,903.

In calendar year 2012, New York recovered the most funds at \$29.8 million. Mississippi leads with the highest percentage of their UIC debt portfolio recovery at 30.51%. In calendar year 2012, the TOP UIC program recovered a total of \$134.6 million. In calendar year 2011, New York, Wisconsin, and Michigan recovered \$26.5 million, bringing the grand total of collections since program inception to \$161.2 million.

FMS continues to encourage states to participate in this successful program and to submit their UIC debts to TOP for offset. Through the UIC Program, participating states can achieve significant collections. FMS is eager and willing to assist each state in its implementation of this program.

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	2,846	\$7,144,856
Maryland	2,587	\$9,563,463
Minnesota	589	\$1,184,011
New Jersey	2,600	\$3,187,655
New York	2,472	\$5,432,868
Wisconsin	861	\$1,598,761
Total	11,955	\$28,111,615

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.

Maryland has achieved the most recovered funds through SRP with total collections of \$9.6 million. Kentucky is second with \$7.1 million recovered in calendar year 2012. In return, SRP participating states recovered \$20.5 million for the Federal government.

As SRP participants continue to see large recoveries through the program, TOP is encouraging those states who do not yet participate in SRP to contact us today to learn how they can be a part of this important debt collection program.

For further information regarding SRP, please contact Thomas Kobiellus of the Treasury Offset Division at (202) 874-3810 or Thomas.Kobiellus@fms.treas.gov.

Top 5 State Income Tax Offset Collections

STATE NAME	OFFSET COUNT	NET COLLECTION AMOUNT
California	71,672	\$73,302,490
New York	93,657	\$66,140,756
Maryland	67,859	\$59,100,165
Georgia	33,008	\$26,280,418
Louisiana	41,739	\$25,990,030

The State Income Tax Program allows states to refer delinquent income tax debts to TOP for offset against federal tax refund payments only.

California has collected the most funds through the State Income Tax Program in 2012, with the recovery of \$73.3 million. New York collected \$66.1 million.

For further information regarding the State Income Tax Program, please contact Thomas Kobiellus of the Treasury Offset Division at (202) 874-3810 or Thomas.Kobiellus@fms.treas.gov.

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