

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Lowenthal Analyst: Janet Jennings Bill Number: AB 443
Related Bills: None Telephone: 845-3495 Introduced Date: February 19, 2013, and Amended March 12, 2013
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Offsets/Unpaid Parking and Traffic Violations

SUMMARY

This bill would, under the Government Code, remove the three year limit on the referral of unpaid parking violations for collection through the state offset program.

This bill also would make changes to the Vehicle Code and contains a technical correction. These changes do not affect the department and are not discussed in this analysis.

RECOMMENDATION

No position.

REASON FOR THE BILL

The reason for the bill is to allow collection of unpaid parking violation debts through offset regardless of the age of the debts.

EFFECTIVE/OPERATIVE DATE

This bill would become effective and operative for debts referred to the Franchise Tax Board (FTB) for offsets occurring on or after January 1, 2014.

ANALYSIS

FEDERAL LAW

Under federal law, the Treasury Offset Program (TOP) is administered by the Financial Management Service, a bureau of the U.S. Department of Treasury. TOP collects delinquent non-tax debts owed to federal agencies, child support owed to county and state authorities, and tax debts owed to state taxing agencies by offsetting the debts against a debtor's federal tax refund.

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STATE LAW

Under state law, the California State Controller is authorized to offset money due from an individual or entity by a state agency as payment for debts due California state agencies, cities, counties, and colleges, as well as the IRS. The FTB operates the Interagency Intercept Collection (IIC) Program on behalf of the State Controller's office. Agencies wishing to participate in the IIC Program are subject to approval by the State Controller. Participating agencies may send accounts to the FTB for offset only after other avenues of collection have failed and the debtor has been sent a notification of the impending offset. The agency referring the debt to the IIC Program is responsible for the accuracy of the debt.

If there is more than one offset request, the priority for payment is as follows:

1. Delinquent child or family support cases enforced by a district attorney.
2. Delinquent child or family support cases enforced by someone other than a district attorney.
3. Delinquent spousal support cases enforced by a district attorney.
4. Delinquent spousal support cases enforced by someone other than a district attorney.
5. Penalties due to the Crime Victims' Restitution Fund.
6. Unemployment benefits overpayment cases.
7. All other California state agencies.
8. California cities and counties.
9. California colleges.
10. The IRS.

The administrative costs of processing an offset payment is deducted by the Controller from any amounts collected prior to distribution.

THIS BILL

This bill would, under the Government Code, eliminate the requirement that an offset request submitted to the Controller for a vehicle parking penalty be submitted within three years of the date the penalty was incurred.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

The *Florida* Department of Revenue (which administers corporate income tax), will offset any refund credit amount with any debit or obligation owed by a taxpayer.

The *Illinois* Comptroller may reduce or take in its entirety any check being issued by the state for any debt owed to the state.

The *Massachusetts* Comptroller is authorized to intercept payments to individuals and organizations that function both as vendors for and customers of, the Commonwealth of Massachusetts for payment of amounts due to state authorities, cities, and towns.

The *Michigan* Department of Treasury withholds income tax refunds or credits for payment of certain debts, such as delinquent taxes, state agency debts, garnishments, probate or child support orders, overpayment of unemployment benefits and IRS levies on individual income tax refunds.

The *Minnesota* Revenue Recapture Program authorizes the Department of Revenue to intercept or offset part or all of a state tax refund or other payment to collect a debt that the taxpayer owes to a government agency or other authorized creditor.

The *New York* State Department of Taxation and Finance is authorized to offset state tax refunds to pay outstanding New York state tax obligations or amounts owed another state agency.

FISCAL IMPACT

This bill would not impact the department's costs. The department's cost is reimbursed at the rate of \$2.50 per successful offset.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue.

SUPPORT/OPPOSITION

Support: None on file

Opposition: None on file

ARGUMENTS

Proponents: Some may argue that parking violations should be paid regardless of when the infraction is incurred.

Opponents: Some may argue that an unlimited time frame for submission of parking violations to the IIC Program is unreasonable.

LEGISLATIVE STAFF CONTACT

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