

Offsets Matter

TOP's News for State Agencies

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The State Income Tax Program *How TOP has Assisted State Taxation Agencies Recover Millions through Offset*



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Each year, at the close of tax season, the Treasury Offset Program (TOP) reviews the success of the State Income Tax Program (SIT). This program allows states to submit their delinquent state income tax debts for matching against federal income tax refund payments. In FY 2014, the SIT program recovered nearly \$516.6 million between Oct. 1, 2013 and June 30, 2014.

The SIT program began on Dec. 20, 1999, with the publishing of a "Notice of Proposed Rulemaking on the Offset of Tax Refund Payments to Collection State Income Tax Obligations" in the Federal Register by the U.S. Department of the Treasury. In 2000, the first state income tax debts were added to TOP and the offset of IRS tax refund payments began. Now almost 15 years later, forty states and the District of Columbia have implemented the SIT program, making this program one of TOP's most successful federal-state partnerships to date.

To participate in the SIT program, states are required to send a 60-day notice to debtors by certified mail, return receipt requested, informing the debtors of their intent to collect the delinquent state income tax debt through TOP. In addition, taxpayers must reside in the state to which the tax obligation is owed (based on the address on their federal tax return for the year of the refund). Debts owed by both individuals and corporations are eligible for submission to TOP, as long as the state is able to classify those debts as an "income tax." The federal government remains committed to assessing states' needs in the recovery of these delinquent debts, and works to continually streamline the program.

A state can increase its collections of delinquent income tax debt by also participating in the State Reciprocal Program (SRP). Once a state enters into a reciprocal offset agreement with the federal government, its delinquent income tax debts become eligible for offset against federal vendor payments and federal retirement payments. This allows states to maximize their use of the program and ensure that they are obtaining the greatest recovery of debts possible through currently existing federal statutes and regulations governing the federal offset process.

For more information about this program and ways to increase your state's recovery opportunities, please contact David Burgess at (202) 874-7182 or via email at StateOffsets@fms.treas.gov.

TOP Makes the Kansas Papers

On July 19, 2014, The Wichita Eagle published an article detailing the state of Kansas' participation with the federal government in three of their Treasury Offset Program's (TOP) state programs



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Ron Estes, Kansas State Treasurer, was quoted within the article saying, "[TOP] is a great way to help make sure obligations to the state are paid by the folks who owe them. It's a good example of governments working together."

Of note, the article addressed differences between what Kansas has recovered as compared to similar states. David Saltiel, Former Acting Deputy Assistant Commissioner for the Debt Management Services, was reported as noting that there could be several reasons for discrepancies in amounts recovered between states. These reasons could include less delinquent debts, fewer federal payments to that's states debtors, or a decision by the state to refer less than 100% of its delinquent debt portfolio.

TOP congratulates Kansas on their successful recovery of \$31.8 million in FY 2013.

U.S. Department of the Treasury Bureau of the Fiscal Service

David W. Burgess
Editor-in-Chief
401 14th Street, SW
Washington, DC 20227
Phone: 202-874-7182
Fax: 202-874-6474
David.Burgess@fiscal.treasury.gov

Offsets vs. Levies

Understanding the Difference between the Treasury Offset Program and SITLP



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The premise behind the Treasury Offset Program (TOP) is relatively simple. The offset process involves federal and state creditor agencies which submit delinquent nontax debt information to TOP after certifying that proper notice and other due process opportunities have been provided to debtors. Information about payees of certain federal and state payments is compared to the information about debtors in the TOP database to determine if the payee owes a delinquent nontax debt. In contrast, the levy process involves the Internal Revenue Service (IRS), which serves levies to the Bureau of the Fiscal Service (Fiscal Service) for the purpose of collecting delinquent tax debt. Fiscal Service complies with these levies by adding these tax debts to TOP and comparing them against certain Treasury-disbursed federal payments. When there is a match between the payee and a debtor, the debtor's payment is intercepted, or offset, to the extent allowed by law to pay down the delinquent federal debt.

Another collection program is the State Income Tax Levy Program (SITLP), which is an automated levy program managed by the IRS. Through SITLP, overdue federal taxes are collected by levying taxpayer's state income tax refunds. Each state with income tax requirements can sign an agreement with the IRS to permit the taxpayer's state income tax refund to be applied to a federal tax liability. Internal Revenue Code 6330 and 6331 gives IRS the authority to levy the taxpayer's state income tax refunds. Qualifying federal tax

debts are sent electronically to each state along with a Notice of Levy (Form 668-A). The tax debt is matched against the taxpayer's state income tax refunds and all or a portion of the refund is sent to the IRS to satisfy the taxpayer's federal debt.

TOP, which is managed by the Fiscal Service, and, SITLP, which is managed by IRS, share certain program similarities. Both programs ask states to match their payments against delinquent debts owed to the federal government, and to redirect those payments to the federal agency to which the debts are owed. However, this may lead states to question why two separate systems exist to manage what superficially appears to be the same function. In response, it is necessary to understand the difference between an "offset" and a "levy."

An offset (which some states refer to as "setoff") is one of the more complex areas of federal debt collection law and operations. It is often confused with other legal debt collection remedies such as garnishment, levy, and recoupment. Federal agencies may employ offset on their own, directly with other agencies, or centrally through TOP. There are many authorities for offset, including the common law, government-wide statutes, and statutes specific to a particular agency or program. Each legal basis for offset has distinct permissions and restrictions on when, how, and what an agency may offset to collect debts.

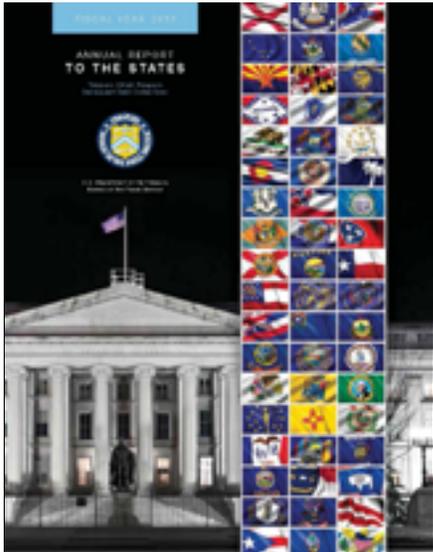
The right to conduct offset is available to parties under common law. This right allows entities that owe each other money to apply their mutual debts against each other. In other words, if Debtor A owes Creditor B \$35, but Creditor B owes Debtor A \$25, Creditor B may "offset" its \$25 payment against Debtor A's debt, leaving Debtor A with a debt of only \$10 owed to Creditor B. The underlying concept remains that an amount owed to the United States by a person may be reduced by an amount that person owes to the United States and applied to that debt.

Alternatively, a levy is a legal seizure of one's property to satisfy a tax debt. While an offset involves only two parties – the creditor and debtor – and funds that are offset generally do not change hands, a levy involves the seizure of property held by a third party and results in that property being transferred from the third party to the creditor. The IRS has statutory authority to administratively seize property to satisfy a tax liability, without going to court.

Levies are issued at the direction of IRS to collect tax debt. IRS serves Fiscal Service with a "continuous levy," under the authority of Internal Revenue Code (IRC) § 6331(h), which means that, until IRS directs otherwise, all future federal payments eligible for levy will be levied (until IRS withdraws the levy order or the debt balance is brought to zero). Fiscal Service conducts levies of federal payments and offsets of federal and state payments through TOP. Levies of state payments do not go through TOP and are instead, served by IRS to the states via SITLP.

At this time, both systems (SITLP and TOP) operate independently of each other and are managed by the IRS and Fiscal Service respectively, both bureaus of the U.S. Department of the Treasury. If you have questions about federal offsets or levies, please contact David Burgess at 202-874-7182 or email StateOffsets@fms.treas.gov. If you have questions about the SITLP program, please contact Paula C. Patterson, Tax Analyst, at 404-338-8965.

2014 Annual Report to the States Released on July 16, 2014



On July 16, 2014, the U.S. Department of the Treasury's (Treasury) Bureau of the Fiscal Service (Fiscal Service) released its Fiscal Year (FY) 2013 Annual Report to the States on the Treasury Offset Program's (TOP) Delinquent Debt Collection. The report details each state's success in collecting delinquent debts through a unique partnership with the federal government. Debts successfully recovered through TOP include delinquent child support and state income tax obligations, unemployment insurance compensation fraud debts, and more.

"The Fiscal Service is proud of the work we have done in collecting more than \$3 billion in delinquent debts for the states in FY 2013, including \$1.9 billion of delinquent child support," said Fiscal Service Commissioner Sheryl Morrow. "The simple premise

of the offset program is that Treasury should not pay those individuals or businesses that have failed to meet their government obligations without first applying that money to the delinquent obligation."

"Treasury encourages states to participate in each of our offset programs," Commissioner Morrow said. "With our proven track record of helping to collect long overdue funds, states can benefit directly from our efforts and recover important taxpayer funds that they are owed."

Due to strong federal-state partnerships in FY 2013, TOP recovered \$6.8 billion for federal and state agencies, including \$1.9 billion in delinquent child support debts, \$605.3 million in outstanding state income tax obligations, \$326.2 million in unemployment insurance claims, and \$37.8 million in state reciprocal program debts. Treasury is proud to partner with the U.S. Department of Labor; Internal Revenue Service; and U.S. Department of Health and Human Services, Office of Child Support Enforcement, to administer the TOP program. Since the implementation of TOP in 1996, the Fiscal Service has collected more than \$61.8 billion for federal and state agencies, including \$33.5 billion for participating states, collecting more than \$57 for every \$1 spent.

To view the FY 2013 Annual Report to the States on TOP's Delinquent Debt Collection visit http://www.fiscal.treasury.gov/fsservices/gov/debtColl/pdf/top/TOP_annual_report_to_states_fy13.pdf

Upcoming TOP Speaking Engagements



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Aug. 24, 2014 - Aug. 27, 2014

2014 MSATA Conference

A representative from the Treasury Offset Program will speak at the Midwestern States Association of Tax Administrators Conference in Minneapolis, MN.

For additional information regarding this conference, please visit the MSATA website at <http://msata2014.revenue.state.mn.us>

Sept. 9, 2014 - Sept. 11, 2014

42nd Annual UCOWF National Training Conference

A representative from the Treasury Offset Program will speak at the United Counsel on Welfare Fraud Training Conference in Little Rock, AR.

For more information regarding this conference, please visit the UCOWF website at <http://www.ucowf.net>

TOP Collection Updates

State Collections (10/01/2013 - 06/30/2014)

TOP offsets federal tax refund payments to payees who owe delinquent state income tax obligations.

New York has recovered the most funds through the State Income Tax program as of June 30, 2014, with a recovery of \$54.7 million. California has recovered the second most funds at \$52.1 million.

For further information regarding SIT, contact David Burgess at 202-874-7182. Alternatively, you may email StateOffsets@fms.treas.gov for more information about any of our state programs.

Top 10 State Income Tax Offset Collections

STATE NAME	OFFSET COUNT	NET COLLECTION AMOUNT
New York	69,313	\$54,717,181.75
California	52,961	\$52,063,792.60
Maryland	57,953	\$51,975,504.99
Georgia	58,530	\$36,069,419.45
Illinois	62,837	\$28,420,614.23
Louisiana	44,948	\$24,919,972.95
Alabama	73,020	\$23,068,881.95
Missouri	39,616	\$22,445,529.07
Ohio	24,958	\$20,600,499.27
New Jersey	27,836	\$16,109,941.79

TOP Collection Updates

State Collections (10/01/2013 - 06/30/2014)



State Unemployment Insurance Compensation Program Collections

STATE NAME	OFFSET COUNT	NET COLLECTION AMOUNT
Alabama	7,831	\$5,774,246.16
Arizona	18,787	\$10,792,221.07
Arkansas	14,167	\$7,813,929.33
California	3,033	\$2,546,212.59
Colorado	2,012	\$2,235,774.57
Connecticut	3,538	\$2,801,866.27
Delaware	6,259	\$6,061,253.62
District of Columbia	974	\$1,364,475.28
Florida	4,779	\$4,244,081.92
Georgia	7,226	\$9,518,495.10
Hawaii	37	\$63,347.63
Idaho	2,918	\$3,924,946.30
Illinois	17,983	\$29,130,575.88
Iowa	85	\$199,707.07
Kentucky	7,138	\$6,286,984.09
Louisiana	4,616	\$8,357,652.48
Maine	664	\$464,809.58
Maryland	9,908	\$11,955,140.74
Michigan	1,312	\$3,030,419.35
Minnesota	5,547	\$9,865,914.80
Mississippi	13,847	\$7,248,682.33
Missouri	10,786	\$12,704,694.03
Nebraska	4,579	\$2,871,331.66
Nevada	995	\$1,767,259.91
New Hampshire	1,680	\$1,334,775.40
New Jersey	25,023	\$47,365,647.55
New Mexico	5,080	\$7,400,290.41
New York	27,002	\$28,595,733.96
North Carolina	21,037	\$14,583,268.29
North Dakota	172	\$275,428.44
Ohio	22,574	\$36,420,162.76
Oregon	4,345	\$6,456,206.98
Pennsylvania	16,622	\$21,078,001.72
Rhode Island	965	\$565,982.24
South Carolina	10,968	\$11,325,651.01
South Dakota	628	\$407,105.71
Tennessee	11,397	\$9,307,156.91
Utah	4,460	\$4,559,018.58
Vermont	1,047	\$780,005.57
Washington	10,221	\$9,609,878.53
West Virginia	1,988	\$1,628,475.70
Wisconsin	12,736	\$10,920,054.47
Total	326,966	\$363,636,865.99

In partnership with the U.S. Department of Labor, TOP offsets federal tax refunds to payees who owe delinquent UIC debts due to fraud or a person's failure to report earnings.

As of June 30, 2014, New Jersey has recovered the most funds at \$47.4 million, followed by Ohio and Illinois, which have recovered \$36.4 million and \$29.1 million, respectively. The TOP UIC program has recovered a total of \$363.6 million as of June 30, 2014.

TOP staff has begun working with states interested in referring their Unemployment Insurance Tax debts to TOP for the next federal tax season. While Fiscal Service continues to work with the IRS to determine if these debts are eligible under current federal tax code, IRS has given Fiscal Service permission to assist states with the programming and testing necessary to begin referring these new debt types.

For further information regarding TOP UIC, please contact Sheila Moss at 202-874-6937 or Becky Park at 202-874-9451. Alternatively, you may email StateOffsets@fms.treas.gov for more information about any of our state programs.

State Reciprocal Program Collections

STATE NAME	OFFSET COUNT	NET COLLECTION AMOUNT
District of Columbia	3,987	\$4,603,720.75
Kentucky	3,906	\$6,704,380.93
Maryland	3,249	\$6,179,768.87
Minnesota	795	\$3,314,075.72
New Jersey	2,601	\$3,319,494.79
New York	3,584	\$9,347,592.08
West Virginia	600	\$546,024.27
Wisconsin	682	\$982,327.05
Total	15,498	\$28,893,003.53

TOP offsets federal vendor and other non-tax payments to payees who owe delinquent debts to state agencies. In return, states offset payments to payees who owe delinquent non-tax debts to federal agencies.

As of June 30, 2014, there are seven states and the District of Columbia participating in SRP. New York has achieved the most recovered funds through SRP in this fiscal year with total collections of \$9.3 million. Kentucky is second with \$6.7 million recovered during the same time.

If your state does not participate in SRP, TOP recommends that you contact us today to learn more about how your state can achieve similar results. TOP is currently scheduling Federal-State Partnership meetings for 2014 to assist in analyzing each state's unique needs when it comes to collection delinquent debts.

For further information regarding SRP, contact David Burgess at 202-874-7182. Alternatively, you may email StateOffsets@fms.treas.gov for more information about any of our state programs.



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David W. Burgess
Editor-in-Chief
401 14th Street, SW
Washington, DC 20227
Phone: 202-874-7182
Fax: 202-874-6474
David.Burgess@fiscal.treasury.gov