



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0276/P3
JK:jld:rs

DOA:.....Ley, BB0081 – Refund setoff hierarchy for state debt collection program and tax refund intercept program

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

Under current law, a state agency may certify to DOR debts owed to the state agency. DOR then collects the debt by subtracting the amount from any state tax refund owed to the debtor. If more than one certified debt exists for any debtor, DOR, generally, collects the debts in the order in which they were certified. Under current law, counties and municipalities may also certify debt to DOR so that DOR may collect the debt from the debtor's state tax refund. In addition, an individual may enter into agreement with DOR to pay debts owed to a state agency, the courts, the legislature, an authority, or a local unit of government.

Under current law, DOR may enter into agreements with the Internal Revenue Service to collect federal tax obligations from state tax refunds, with other states to collect their tax obligations from state tax refunds, and with federally recognized tribes located in this state to collect tribal obligations from state tax refunds.

This bill provides that debts certified to DOR are collected in the following order:

1. Wisconsin child support obligations certified by DCF.
2. State agency debt collected pursuant to an agreement with an individual taxpayer and debt certified by the courts, the legislature, or authorities.

3. Debt owed to local units of government collected pursuant to an agreement with an individual taxpayer.
4. State agency debt, other than child support obligations.
5. Child support or spousal support obligations submitted by an agency of another state.
6. Debt certified by counties and municipalities.
7. Federal tax obligations.
8. Tribal obligations.
9. Tax obligations of other states.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.93 (3) (a) of the statutes is renumbered 71.93 (3) (a) (intro.) and amended to read:

71.93 (3) (a) (intro.) The department of revenue shall setoff any debt or other amount owed to the department, regardless of the origin of the debt or of the amount, its nature or its date. If after the setoff there remains a refund in excess of \$10, the department shall set off the remaining refund against certified debts of other state agencies. entities in the following order:

(am) If more than one certified debt exists for any debtor for the same type of debt specified under par. (a) 1. to 9., the refund shall be first set off against the earliest debt certified, except that no child support or spousal support obligation submitted by an agency of another state may be set off until all debts owed to and certified by state agencies of this state have been set off. When all debts have been satisfied, any remaining refund shall be refunded to the debtor by the department. Any legal action contesting a setoff under this paragraph shall be brought against the state agency entity that certified the debt under sub. (2).

SECTION 2. 71.93 (3) (a) 1. to 9. of the statutes are created to read:

71.93 (3) (a) 1. Wisconsin child support debt certified by the department of children and families under sub. (2).

2. State agency debt collected pursuant to an agreement under sub. (8) and debt owed to the courts, the legislature, or an authority, as defined in s. 16.41 (4), collected pursuant to an agreement under sub. (8).

3. Debt owed to local units of government collected pursuant to an agreement under sub. (8).

4. Debt certified under sub. (2), other than child support debt certified by the department of children and families.

5. Child support or spousal support obligations submitted by an agency of another state.

6. Debt certified under s. 71.935 (2).

7. Federal tax obligations collected pursuant to an agreement under s. 73.03 (52) (a).

8. Tribal obligations collected pursuant to an agreement under s. 73.03 (52n).

9. Tax obligations of other states collected pursuant to an agreement under s. 73.03 (52m).

SECTION 3. 71.93 (8) (b) 6. of the statutes is amended to read:

71.93 (8) (b) 6. If the debtor owes debt to the department and to other entities, payments shall first apply to debts owed to the department, then to the state agencies, the courts, the legislature, and authorities, as defined in s. 16.41 (4), in the order in which the debts were referred to the department, and then to local units of government in the order in which the debts were referred to the department other entities in the order determined under sub. (3) (a).

SECTION 9437. Effective dates; Revenue.

(1) REFUND SETOFFS. The treatment of section 71.93 (8) (b) 6. of the statutes, the renumbering and amendment of section 71.93 (3) (a) of the statutes, and the creation of section 71.93 (3) (a) 1. to 9. of the statutes take effect on the first day of the 6th month beginning after publication.

(END)