

IN THE SENATE

SENATE BILL NO. 1123

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO COURTS; AMENDING SECTION 1-1624, IDAHO CODE, TO REVISE A DEFINITION AND TO REMOVE A PROVISION REGARDING DEBTS LESS THAN FIFTY DOLLARS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 1-1624, Idaho Code, be, and the same is hereby amended to read as follows:

1-1624. SET-OFF PROCEDURE FOR DELINQUENT DEBTS OWED TO THE COURTS. (1) The purpose of this legislation is to enable the Idaho supreme court, as the supervisor of the unified and integrated judicial system of this state, to apply for a set-off of state tax refunds and credits owing to a taxpayer in payment of a delinquent debt owed by the taxpayer to the courts of this state. It is the intent of the legislature that this set-off remedy be in addition to and not in substitution of any other remedy or action provided for by law for the collection of such delinquent debts.

(2) The state tax commission shall withhold and set-off any income tax or tax credit refund of any taxpayer, upon notification from the Idaho supreme court, to collect any debt owed to the courts by the taxpayer which is delinquent. A remittance by the state tax commission to the court pursuant to this section shall be deemed to be, to the extent of the remittance, a refund to the taxpayer and any other person who has a claim to such refund, and the state tax commission shall not be liable to any person because of a refund that has been remitted under this section.

(3) A "debt owed to the courts" means any assessment of fines, court costs, surcharges, penalties, fees, restitution, moneys expended in providing counsel and other defense services to indigent defendants, or other charges assessed and contained in a that a court judgment against or disposition has ordered to be paid to the court in civil, criminal, or juvenile cases, or in an agreement by, a defendant in a criminal proceeding and owed to the court, including any interest or penalty on the same as provided for in such judgment, such disposition, such agreement or by law.

(4) As used in subsections (3) and (65) of this section, "agreement" means an agreement that:

(a) Has been filed with the court and placed in the court's case file;

(b) Has been approved by the court;

(c) Provides that all payments due pursuant to the agreement shall be made to the clerk of the court; and

(d) If executed on and after July 1, 2017, contains provisions serving to notify the taxpayer of payment due dates; the set-off of tax refunds and credits remedy provided for in this section; and the right to object to a set-off of tax refunds and credits as provided for in subsection (87) (d) of this section.

1           ~~(5) This section does not apply to a debt owed to the courts which does~~  
2 ~~not exceed the sum of fifty dollars (\$50.00).~~

3           ~~(6)~~ A debt owed to the courts is delinquent when it is not paid according  
4 to the terms of such judgment or agreement, but at no time shall a delinquency  
5 be deemed to exist if the aggregate amount of money paid in satisfaction of an  
6 agreement equals or exceeds the total amount of money that the taxpayer was  
7 obligated to pay up to that time pursuant to the agreement.

8           ~~(7)~~ Any claims for current or past-due child support presented under  
9 section 56-203D, Idaho Code, or claims for set-off of income tax refunds  
10 against any tax liability or overpayment of benefits owed to the state  
11 department of labor pursuant to section 63-3077A, Idaho Code, shall take  
12 priority over any claim for delinquent debt owed to the courts under this  
13 section.

14           ~~(8)~~ The set-off or withholding of a refund due a taxpayer shall be re-  
15 mitted only after the following conditions have been met:

16           (a) A debt owed to the courts is delinquent. This section shall not  
17 be used to satisfy any amount ordered by the court until the order or  
18 judgment is final and the time for appealing the judgment or order has  
19 elapsed without any further right on the part of the person owing the  
20 amount to judicial review.

21           (b) All outstanding tax liabilities collectible by the state tax com-  
22 mission are satisfied.

23           (c) The supreme court shall forward to the state tax commission the full  
24 name and social security number of the taxpayer. The tax commission  
25 shall notify the supreme court of the amount of refund due the taxpayer  
26 and the taxpayer's address on the income tax return.

27           (d) Upon remittance of any set-off or part thereof, the court shall  
28 cause a written notice to be sent to the taxpayer whose refund is subject  
29 to the set-off. Notice of the set-off shall be sent by United States  
30 mail to the taxpayer at the address listed on the income tax return.  
31 Within twenty-one (21) days after such notice has been mailed (not  
32 counting Saturday, Sunday or a state holiday as the twenty-first day),  
33 the taxpayer may file a written objection to the set-off in accordance  
34 with procedures established by the supreme court, which may impose rea-  
35 sonable requirements concerning the information necessary to process  
36 the objection. No issues or claims previously decided in a court order  
37 or judgment, or admitted or agreed to by the taxpayer, shall be con-  
38 sidered in connection with an objection. In the case of a refund that  
39 is set-off in error under this section, the court shall reimburse the  
40 taxpayer.

41           ~~(9)~~ The supreme court shall create a suspense account to pay amounts  
42 that are found to be set-off in error under the provisions of subsection  
43 ~~(8)~~ (d) of this section or to refund any balance that remains after the debt  
44 to the courts is satisfied. If no written objection to the set-off is made  
45 within twenty-one (21) days, such failure shall be deemed a waiver of the  
46 right to contest the set-off and the amount of the set-off shall be removed  
47 from the suspense account and shall be credited to the taxpayer's debt to the  
48 courts. The court may waive the twenty-one (21) day time limit in appropri-  
49 ate circumstances.

1           (~~109~~) When set-off is attempted on a joint return under the provisions  
2 of this section, the taxpayer not specified to be the obligor in the judgment  
3 or agreement creating the debt owed to the court may file a written objection  
4 within the time limits specified in subsection (~~87~~) (d) of this section and  
5 the set-off will be limited to one-half (1/2) of the joint refund.

6           (~~110~~) If the refund is insufficient to satisfy the entire debt owed to  
7 the courts, the remainder of the debt may be collected as provided by law or  
8 submitted for set-off against subsequent refunds.

9           (~~121~~) The proceeds from the set-off shall be credited to the debt owing  
10 to the courts and shall be distributed as provided by law.

11           (~~132~~) The state tax commission and the supreme court independently may  
12 adopt rules governing its administration of this section and are authorized  
13 to enter into a written agreement to implement and facilitate the provisions  
14 of this section, including the method of making remittances of the amount  
15 which has been set-off pursuant to this section.