

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 1777 STATE OF NEW JERSEY 220th LEGISLATURE

DATED: NOVEMBER 21, 2022

SUMMARY

- Synopsis:** Allows gross income tax refunds to be credited against taxpayer's delinquent local property taxes.
- Type of Impact:** A recurring revenue loss for State government and a recurring revenue gain for local governments.
- Agencies Affected:** Department of the Treasury and local governments.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2023 & Thereafter</u>
State Revenue Loss	Indeterminate
State Cost	None
Local Revenue Gain	Indeterminate
Local Cost Increase	Minimal or None

- The Office of Legislative Services (OLS) anticipates that a substantial portion of the local revenue gain prompted by this bill will likely accrue to local governments at the expense of the State and other entities that participate in the Set Off of Individual Liabilities (SOIL) program. This will be so because the new local government claim to gross income tax refunds of delinquent property taxpayers, created by this legislation, will have priority over any State or other claim.
- Local property tax delinquencies of \$263.0 million were reported to the Division of Taxation in tax year 2021 by 345 municipalities.
- Under the SOIL program administered by the Division of Revenue and Enterprise Services in the Department of the Treasury, \$55.0 million in taxpayer liabilities to the State and other SOIL participants were offset against State gross income tax refunds and homestead property tax benefits in FY 2022.

BILL DESCRIPTION

The bill requires the Division of Taxation in the Department of the Treasury to apply a taxpayer's gross income tax refund against that taxpayer's local property tax delinquency instead of issuing the refund to the taxpayer. Currently, the division can only withhold a taxpayer's homestead rebate payment to offset the taxpayer's local property tax delinquency.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The OLS has not received a fiscal estimate for this bill from the Executive. The Department of the Treasury, however, has cooperated with the OLS in providing the office with the data it requested in timely fashion.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will increase annual local property tax collections by an indeterminate amount. Based on an untested method, the office finds that the amount may range from \$4.5 million to \$13.5 million per year. The OLS anticipates, however, that a substantial portion of the local revenue gain will likely accrue to local governments at the expense of the State and other entities that participate in the SOIL program. This will occur because the new local government claim to gross income tax refunds of delinquent property taxpayers will have priority over any State or other claim.

The OLS expects the bill will minimally increase the administrative costs of those municipalities that will newly participate in the existing local property tax delinquencies set-off program because of the bill. These municipalities might incur an additional cost in newly submitted delinquencies information to the Treasury.

Lastly, the OLS anticipates that the bill will not add to Treasury's administrative costs. Set-off processes for implementing the bill have been operational for years in the form of the SOIL program and a more limited version for municipal tax debt. These existing set-off programs should be able to accommodate the additional cross-check of the existing municipal property tax debtor against the list of taxpayers eligible to receive a gross income tax refund, as is required by this legislation.

Local Revenue Gain: Under the SOIL program, which the Division of Revenue and Enterprise Services in the Department of the Treasury administers, \$55.0 million in delinquent State tax liabilities were offset against State gross income tax refunds and homestead property tax benefits in FY 2022. If gross income tax refunds comprised 25 percent to 75 percent of that total, then the total amount of delinquent State tax liabilities offset against State gross income tax refunds in FY 2022 ranged from \$13.75 million to \$41.25 million. In response to an OLS request for information, the Division of Taxation reported that the amount of outstanding tax debt owed to the State in FY 2019, FY 2020, and FY 2021 combined was \$803.0 million. FY 2022 SOIL gross income tax refunds represented 1.7 percent to 5.1 percent of the amount of outstanding tax debt owed to the State in FY 2019, FY 2020, and FY 2021. (For the proportionalization, the OLS chooses that three-year total, as the likelihood of collection decreases with the age of the debt and as the local property tax debt statistics used in the following paragraph represent only the most recent one-year period.)

The Department of the Treasury also communicated to the OLS that 345 municipalities reported \$263.0 million in local property tax delinquencies to the Division of Taxation in tax year 2021 under N.J.S.A.54:4-8.64. The amounts of local property tax delinquencies reported to the Division of Taxation typically represent a one-year period.

Applying the 1.7 percent and 5.1 percent proportions to the \$263.0 million in local property tax delinquencies yields \$4.5 million to \$13.5 million in additional local revenue per year. The OLS issues this estimate with a note of caution, given the uncertainties involved in the above proportionalization and the absence of data regarding the amount of local property tax delinquencies offset against homestead property tax rebates in tax year 2021.

State Revenue Loss: The OLS anticipates that a substantial portion of the annual local revenue gain will likely accrue to local governments at the expense of the State and other entities that participate in the SOIL program, given that the new local government claim to gross income tax refunds of delinquent property taxpayers will have priority over any State or other claim. As a result, if a municipal tax collector and the State or another SOIL program participant have simultaneous claims against a taxpayer who is entitled to a refund, the municipal tax collector will have priority in claiming the refund. The State or other participant will only receive that part of the refund that will be left over after a municipal property tax delinquency has been offset. Under current law, local governments do not have any claim to gross income tax refunds and therefore do not impede the State or other SOIL participating entities from claiming delinquent taxpayers' gross income tax refunds.

Local Administrative Expenses: The OLS expects that this bill might cause some municipalities to incur minimal additional administrative costs.

To enable the Department of the Treasury to check its database of taxpayers who are entitled to a gross income tax refund against the list of delinquent property taxpayers, municipalities must first inform Treasury of the delinquencies. Municipalities that are already participating in the existing set-off program under which the Division of Taxation withholds a taxpayer's homestead rebate payment to offset the taxpayer's municipal property tax delinquency are already reporting delinquencies and will thus not incur an additional expense because of this bill (345 municipalities in tax year 2021). New participants in the set-off program who will join because of this bill, on the other hand, might incur a cost in newly submitting delinquencies information to the Treasury. Since program participation cannot be compelled, however, municipalities remain free to elect whether to take advantage of the local property tax set-off program or not.

State Administrative Expenses: The OLS anticipates that the bill will not add to Treasury's administrative costs. Set-off processes for implementing the bill have been operational for years in the form of the SOIL program and a more limited version thereof for municipal tax debt. These existing set-off-programs should be able to accommodate the additional cross-check of the existing municipal property tax debtor database against the list of taxpayers eligible to receive a gross income tax refund, as is required by this legislation.

Under a previous element of the set-off program, the Division of Taxation received information on deficient local property tax payments from participating local property tax collectors, withheld homestead rebate payments from eligible recipients with local property tax debt, and credited amounts withheld thusly to local governments owed property tax payments by the rebate recipients. The bill extends that process to State gross income tax payments. As a result, the set-off program would be functionally identical to the SOIL program through which the Division of Revenue and Enterprise Services credits a delinquent taxpayer's homestead rebate and gross

income tax refunds against the taxpayer's State tax delinquencies instead of issuing the payments to the delinquent taxpayer.

Section: Revenue, Finance, and Appropriations
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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).