

SENATE, No. 447

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator MICHAEL J. DOHERTY

District 23 (Hunterdon, Somerset and Warren)

SYNOPSIS

Allows gross income tax refunds to be credited against a taxpayer's delinquent local property taxes and adjusts administration of setoffs against gross income tax refunds and homestead rebates or credits.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** allowing gross income tax refunds to be credited against a
2 taxpayer's delinquent local property taxes and concerning the
3 administration of setoffs against gross income tax refunds and
4 homestead rebates or credits, amending section 1 of P.L.1981,
5 c.239 and section 8 of P.L.1990, c.61.

6
7 **BE IT ENACTED** *by the Senate and General Assembly of the State*
8 *of New Jersey:*

9
10 1. Section 1 of P.L.1981, c.239 (C.54A:9-8.1) is amended to
11 read as follows:

12 1. a. Whenever any taxpayer or resident shall be entitled to
13 any refund of taxes pursuant to the "New Jersey Gross Income Tax
14 Act," (N.J.S.54A:1-1 et seq.), including an earned income tax credit
15 provided as a refund pursuant to P.L.2000, c.80 (C.54A:4-6 et al.),
16 or whenever any individual is eligible to receive a homestead rebate
17 or credit pursuant to P.L.1990, c.61 (C.54:4-8.57 et al.), P.L.1999,
18 c.63 (C.54:4-8.58a et al.), P.L.2004, c.40 or P.L.2007, c.62
19 (C.18A:7F-37 et al.), a refund or homestead rebate or credit shall
20 first be applied to satisfy child support indebtedness and then if the
21 refund or homestead rebate or credit is not required to be paid over
22 to the municipal tax collector under the provisions of section 8 of
23 P.L.1990, c.61 (C.54:4-8.64), and at the same time the taxpayer or
24 resident shall be indebted to any agency or institution of State
25 Government, to the Victims of Crime Compensation Board for the
26 portion of an assessment ordered pursuant to section 2 of P.L.1979,
27 c.396 (2C:43-3.1) for deposit in the Victims of Crime
28 Compensation Board Account or restitution ordered to be paid to
29 the board pursuant to N.J.S.2C:44-2 for deposit in the Victims of
30 Crime Compensation Board Account **】, or for child support under**
31 **Title IV-A, Title IV-D, or Title IV-E of the federal Social Security**
32 **Act (42 U.S.C. s.601 et seq.)**】**, or other indebtedness in accordance**
33 **with section 1 of P.L.1995, c.290 (C.2A:17-56.11b) the Department**
34 **of the Treasury shall apply or cause to be applied the refund,**
35 **homestead rebate or credit, or all, or so much of any or all as shall**
36 **be necessary, to satisfy the indebtedness. Child support**
37 **indebtedness shall take precedence over all other indebtedness. The**
38 **Department of the Treasury shall retain a percentage of the**
39 **proceeds of any collection setoff as shall be necessary to provide**
40 **for any expenses of the collection effort.**

41 b. A State department or agency which is owed a debt shall
42 notify the Department of the Treasury of the existence of the debt
43 and shall request that the Department of the Treasury execute a
44 setoff as provided for in this section.

45 c. As used in this section:

EXPLANATION – Matter enclosed in bold-faced brackets **】 thus **】** in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 “Child support indebtedness” means indebtedness for child
2 support under Title IV-A, Title IV-D, or Title IV-E of the federal
3 Social Security Act (42 U.S.C. s.601 et seq.); and

4 “Refund of taxes pursuant to the "New Jersey Gross Income Tax
5 Act," (N.J.S.54A:1-1 et seq.)" or "refund" shall include any interest
6 allowed on a refund of an overpayment pursuant to subsection f. of
7 N.J.S.54A:9-7.

8 (cf: P.L.2007, c.62, s.38)

9
10 2. Section 8 of P.L.1990, c.61 (C.54:4-8.64) is amended to read
11 as follows:

12 8. a. The tax collector of each municipality shall, on or before
13 **【April】** February 1 of each year, furnish the director with a list of
14 property taxpayers in the district delinquent for taxes due and
15 payable for the year immediately preceding and the amounts of such
16 delinquencies. The collector shall report on such list the name, lot
17 and block number on the property tax duplicate as may be
18 applicable, and the address of each owner to whom a delinquency is
19 attributable together with the amount of such delinquency so
20 identified. No homestead rebate payment under this act or refund
21 of taxes pursuant to the "New Jersey Gross Income Tax Act,"
22 N.J.S.54A:1-1 et seq., shall be made to a property owner, and no
23 homestead credit shall be applied as provided in subsection b. of
24 section 7 of P.L.1990, c.61 (C.54:4-8.63), while that property
25 owner's delinquency remains; provided however that for the
26 purposes of this act, for an assessment on a property which is on
27 appeal and for which the statutory percentage of the tax as provided
28 in R.S.54:3-27 has been paid, the taxes assessed on that property
29 shall not be regarded as delinquent.

30 Provided however, no withholding of a homestead rebate or
31 credit or refund of taxes pursuant to the "New Jersey Gross Income
32 Tax Act," N.J.S.54A:1-1 et seq. shall be authorized against a
33 property owner if the property tax delinquency is due for a property
34 in which the property owner shares an ownership interest with a
35 spouse or former spouse, pursuant to a court order the property
36 owner's spouse or former spouse is required to make the property
37 tax payments that are delinquent, the property owner and the
38 property owner's spouse or former spouse are not cohabitating on
39 the date the delinquent property taxes become delinquent, and the
40 property owner is not residing at the property on the date the
41 delinquent property taxes become delinquent.

42 b. If the director receives the list as provided for in subsection
43 a. of this section, and the director determines that a property tax
44 delinquency remains for the preceding tax year on **【April】** February
45 1, the director shall ascertain the amount of the homestead rebate or
46 credit or refund of taxes pursuant to the "New Jersey Gross Income
47 Tax Act," N.J.S.54A:1-1 et seq., required to be withheld because of
48 such delinquency in each municipality in the State, and shall certify

1 such amounts to the State Treasurer as soon thereafter as may be
2 practicable.

3 c. On or before November 15, the director shall notify each
4 homestead rebate or credit claimant whose rebate or credit has been
5 withheld, or gross income tax taxpayer whose refund has been
6 withheld, because of delinquency that the amount of the rebate or
7 credit or refund to which the claimant or gross income tax taxpayer
8 otherwise would have been entitled has been sent to the tax
9 collector in the municipality to be credited against the claimant's
10 delinquency.

11 d. Upon certification by the director as to the amount of
12 homestead rebates or credits or refund of taxes pursuant to the
13 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.,
14 required to be withheld because of delinquency in the several
15 municipalities, the State Treasurer upon the warrant of the Director
16 of the Division of Budget and Accounting, shall pay such amount
17 on or before October 30 to the tax collector in each municipality.

18 e. The tax collector in each municipality shall credit the tax
19 delinquency of each property taxpayer who appears on the
20 delinquency list set forth in subsection a. of this section in the
21 amount that otherwise would have been returned to the property
22 taxpayer as a homestead rebate or credit or a refund of taxes
23 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
24 et seq. In the event that the amount so credited by the tax collector
25 exceeds the amount of delinquency, the tax collector may return the
26 difference to the taxpayer or credit such amount to the subsequent
27 property tax bill.

28 f. In the case of delinquency in the payment of property taxes
29 by a cooperative, mutual housing corporation or continuing care
30 retirement community, a homestead rebate that may be due an
31 individual resident shall be paid by the State Treasurer to the tax
32 collector of the municipality. The tax collector shall credit the
33 cooperative, mutual housing corporation or continuing care
34 retirement community with such payment and the cooperative,
35 mutual housing corporation or continuing care retirement
36 community shall, in turn, credit the individual unit owner to the
37 extent of the rebate and notify the applicant of the amount to be
38 credited.

39 g. If a tax collector fails to comply with the provisions of
40 subsection a. of this section requiring the tax collector to furnish the
41 director with a list, on or before **【April】** February 1 of each year, of
42 property taxpayers in the district delinquent for taxes due and
43 payable for the year immediately preceding and the amounts of such
44 delinquencies, the director shall refund any taxes pursuant to the
45 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and
46 either pay the homestead rebate directly to the delinquent applicant
47 rather than to the tax collector of the municipality as set forth in

1 subsection d. of this section or provide a credit for the applicant
2 under this act.

3 h. All provisions of this section shall apply to NJ SAVER
4 rebate applications filed for and paid as homestead rebates for tax
5 year 2003.

6 i. As used in this section, "refund of taxes pursuant to the
7 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.," or
8 "refund" shall include any interest allowed on a refund of an
9 overpayment pursuant to subsection f. of N.J.S.54A:9-7.
10 (cf: P.L.2007, c.62, s.26)

11

12 3. This act shall take effect immediately.

13

14

15 STATEMENT

16

17 This bill allows gross income tax refunds to be credited against a
18 taxpayer's delinquent local property taxes in the same manner as is
19 currently allowed for homestead property tax rebates and credits
20 claimed by delinquent property tax taxpayers. The bill provides,
21 however, that a gross income tax refund and homestead rebate or
22 credit shall first be applied to satisfy child support indebtedness
23 before being credited against a taxpayer's delinquent local property
24 taxes.

25 The bill also provides an exemption to this setoff process for an
26 individual whose delinquency for local property taxes arises out of
27 the failure of the individual's spouse or former spouse to abide by a
28 court order to pay property taxes on a property held jointly.

29 Specifically, this exemption will prevent the setoff from being
30 applied against an individual that meets all of the following criteria:
31 (1) shares an ownership interest in the property subject to the
32 property tax delinquency with a spouse or former spouse, (2)
33 pursuant to a court order the individual's spouse or former spouse is
34 required to make the property tax payments that are delinquent, (3)
35 the individual and the individual's spouse or former spouse are not
36 cohabitating on the date the delinquent property taxes became
37 delinquent, and (4) the individual is not residing at the property on
38 the date the delinquent property taxes became delinquent.

39 This bill also adjusts from April 1 to February 1 the statutory
40 date by which a municipal tax collector provides the Director of the
41 Division of Taxation a list of delinquent property taxpayers for the
42 previous year. This change provides the Division of Taxation an
43 additional two months of notice of potential setoffs in advance of
44 the busiest season for gross income tax return processing.