

[CORRECTED COPY]
CHAPTER 32

AN ACT authorizing the State Treasurer to enter a reciprocal debt collection agreement with the federal government, enabling the implementation of the agreement, supplementing Title 54 of the Revised Statutes and amending R.S.54:50-9.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.54:49-12.7 Reciprocal debt collection agreement with federal government.

1. The State Treasurer or the State Treasurer's designee may enter into a reciprocal collection and offset of indebtedness agreement with the federal government, pursuant to which the State will offset from State tax refunds and from payments otherwise due to vendors and contractors providing goods or services to State departments, agencies or institutions, non-tax debt owed to the federal government; and the federal government will offset from federal payments to vendors, contractors and taxpayers debt owed to the State of New Jersey.

C.54:49-12.8 Definitions relative to reciprocal debt collection agreement.

2. As used in sections 2 through 6 of P.L.2006, c.32 (C.54:49-12.8 through 54:49-12.12):

“Federal official” means a unit or official of the federal government charged with the collection of non-tax liabilities payable to the federal government pursuant to 31 U.S.C. s.3716.

“Non-tax liability due the State” means a liability certified by the State Treasurer and shall include but shall not be limited to fines, fees, penalties and other non-tax assessments imposed by or payable to an agency of the State of New Jersey that is finally determined to be due and owing.

“Person” means an individual, partnership, society, association, joint stock company, corporation, public corporation, or any public authority, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity whether appointed by a court or otherwise, and any combination of the foregoing.

“Refund” means an amount described as a refund of tax under the provisions of the State tax law that authorized its payment.

“Vendor payment” means any payment, other than a refund, made by the State to any person or entity, and shall include but shall not be limited to any expense reimbursement to an employee of the State; but shall not include a person’s salary, wages, or pension.

C.54:49-12.9 Powers of federal official.

3. a. A federal official may:

(1) Certify to the State Treasurer the existence of a person’s delinquent non-tax liability owed by the person to the federal government; and

(2) Request that the State Treasurer withhold any refund and vendor payment to which the person is entitled.

b. A federal official may certify and request the State Treasurer to withhold a refund or vendor payment only if the laws of the United States:

(1) Allow the State Treasurer, on behalf of the State, to enter into a reciprocal agreement with the United States, pursuant to which the federal official would be authorized to offset federal payments to collect delinquent tax and non-tax debts owed to the State; and

(2) Provide for the payment of the amount withheld to the State.

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c. The Department of the Treasury may retain a portion of the proceeds of any collection setoff as provided under agreement with the federal official.

C.54:49-12.10 Certification by federal official to State Treasurer.

4. a. A certification by a federal official to the State Treasurer shall include:

(1) the full name and address of the person and any other names known to be used by the person;

(2) the social security number or federal tax identification number;

(3) the amount of the non-tax liability; and

(4) a statement that the debt is past due and legally enforceable in the amount certified.

b. The State Treasurer shall determine if a person for whom a certification is received is due a refund of New Jersey tax or a vendor payment.

c. The State Treasurer shall:

(1) withhold a refund or vendor payment that is due a person whose name has been certified by a federal official;

(2) in accordance with the provisions of the offset agreement, notify the person of the amount withheld in satisfaction of a liability certified by a federal official;

(3) pay to the federal official the lesser of:

(a) the entire refund and/or vendor payment; or

(b) the amount certified; and

(4) pay any refund or vendor payment in excess of the certified amount to the person.

C.54:49-12.11 Powers of State Treasurer.

5. The State Treasurer may:

a. certify to a federal official the existence of a person's delinquent non-tax and tax liability owed by the person to the State government;

b. request that the federal official withhold any vendor payment to which the person is entitled; and

c. provide for the payment of the amount withheld to the State.

C.54:49-12.12 Certification by State Treasurer to federal official.

6. A certification by the State Treasurer to the federal official shall include:

a. the full name and address of the person and any other names known to be used by the person;

b. the social security number or tax identification number;

c. the amount of the tax or non-tax liability;

d. a statement that the debt is past due and legally enforceable in the amount certified; and

e. any other information required by federal statute or regulation applicable to the collection of the debt by offset of federal payments.

7. R.S.54:50-9 is amended to read as follows:

Certain officers entitled to examine records.

54:50-9. Nothing herein contained shall be construed to prevent:

a. The delivery to a taxpayer or the taxpayer's duly authorized representative of a copy of any report or any other paper filed by the taxpayer pursuant to the provisions of this subtitle or of any such State tax law;

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b. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;

c. The director, in the director's discretion and subject to reasonable conditions imposed by the director, from disclosing the name and address of any licensee under any State tax law, unless expressly prohibited by such State tax law;

d. The inspection by the Attorney General or other legal representative of this State of the reports or files relating to the claim of any taxpayer who shall bring an action to review or set aside any tax imposed under any State tax law or against whom an action or proceeding has been instituted in accordance with the provisions thereof;

e. The examination of said records and files by the Comptroller, State Auditor or State Commissioner of Finance, or by their respective duly authorized agents;

f. The furnishing, at the discretion of the director, of any information contained in tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the tax laws, to the taxing officials of any other state, the District of Columbia, the United States and the territories thereof, providing said jurisdictions grant like privileges to this State and providing such information is to be used for tax purposes only;

g. The furnishing, at the discretion of the director, of any material information disclosed by the records or files to any law enforcing authority of this State who shall be charged with the investigation or prosecution of any violation of the criminal provisions of this subtitle or of any State tax law;

h. The furnishing by the director to the State agency responsible for administering the Child Support Enforcement program pursuant to Title IV-D of the federal Social Security Act, Pub. L.93-647 (42 U.S.C. s.51 et seq.), with the names, home addresses, social security numbers and sources of income and assets of all absent parents who are certified by that agency as being required to pay child support, upon request by the State agency and pursuant to procedures and in a form prescribed by the director;

i. The furnishing by the director to the Board of Public Utilities any information contained in tax information statements, reports or returns or any audit thereof or a report of any investigation made with respect thereto, as may be necessary for the administration of P.L.1991, c.184 (C.54:30A-18.6 et al.) and P.L.1997, c.162 (C.54:10A-3 et al.);

j. The furnishing by the director to the Director of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety any information contained in tax information statements, reports or returns or any audit thereof or a report of any investigation made with respect thereto, as may be relevant, in the discretion of the director, in any proceeding conducted for the issuance, suspension or revocation of any license authorized pursuant to Title 33 of the Revised Statutes;

k. The inspection by the Attorney General or other legal representative of this State of the reports or files of any tobacco product manufacturer, as defined in section 2 of P.L.1999, c.148 (C.52:4D-2), for any period in which that tobacco product manufacturer was not or is not in compliance with subsection a. of section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-2), for the purpose of facilitating the administration of the provisions of P.L.1999, c.148 (C.52:4D-1 et seq.);

l. The furnishing, at the discretion of the director, of information as to whether a contractor or subcontractor holds a valid business registration as defined in section 1 of P.L.2001, c.134 (C.52:32-44);

m. The furnishing by the director to a State agency as defined in section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees subject to suspension for non-payment of State tax indebtedness pursuant to P.L.2004, c.58 (C.54:50-26.1 et al.);

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n. The release to the United States Department of the Treasury, Bureau of Financial Management Service, or its successor of relevant taxpayer information for purposes of implementing a reciprocal collection and offset of indebtedness agreement entered into between the State of New Jersey and the federal government pursuant to section 1 of P.L.2006, c.32 (C.54:49-12.7).

8. This act shall take effect immediately, provided however that sections 2 through 6 shall remain inoperative until the State Treasurer enters into the agreement authorized in section 1.

Approved July 8, 2006.