

May 17, 2010

S 1188. IMPROVE TAX & DEBT COLLECTION PROCESS. Filed 5/17/10. *TO IMPROVE THE COLLECTION OF TAX DEBTS AND OTHER DEBTS OWED THE STATE.*

Amends GS 147-86.20(1) to expand the definition for *account receivable* to include taxes.

Amends GS 105-242.1 to define *financial institution* as having the same meaning as in GS 53B-2.

Current law directs the State Controller to implement a statewide accounts receivable program. Amends GS 147-86.22 to delete the requirement that the State Controller establish procedures for determining when to end efforts to collect accounts receivable after they have been written off.

Expands the use of the Setoff Debt Collection Act [GS Chapter 105A] (1) allow debts owed by a business to be set off against any tax refund owed to the business by the state; (2) allow a setoff against any type of tax refund (was, individual income tax refund); and (3) include community colleges among the state agencies permitted to claim a setoff for debts owed to the college. Makes conforming changes to provide for the use of federal identification numbers (business entities) or social security numbers (persons) for identification purposes by claimant agencies and for accounting purposes. Amends GS 147-86.25 to provide for the collection by setoff of (1) accounts receivable submitted to the Department of Revenue (DOR) by a claimant agency under the Setoff Debt Collection Act and (2) an overdue tax debt as defined in GS 105-243.1.

Amends GS 105-242(b) regarding attachment and garnishment of a taxpayer's intangible property. Authorizes the Secretary to provide identifying information to a financial institution as defined in GS 53B-2 in order to match data between the Department of Revenue and financial institutions with the accounts of delinquent taxpayers. Requires a financial institution receiving information on a taxpayer regarding a collectible debt under GS 105-241.22 to (1) determine the amount, if any, of the taxpayer's intangible property it holds that is subject to attachment and garnishment and (2) inform the Secretary of its determination. Requires the Secretary to reimburse limited costs incurred by the financial institution in providing the information.. Effective January 1, 2011.

Amends GS 105-259(b)(18) to restrict the disclosure of identifying information to only that information which is needed by the State Controller to implement setoff debt collection program established under GS 147-86.25.

Amends GS 105-242.1 to make changes to the attachment and garnishment process, allowing communication of a notice of garnishment to a garnishee by electronic means with the agreement of the garnishee. Provides the criteria for the content of an electronic notice of garnishment. Deletes option for sending notice by registered or certified mail. Amends the time limits for a garnishee to comply with the notice of garnishment or file a written response: (1) directs a garnishee that is a financial institution to comply or file a written response within 20 days after receiving the notice; and (2) directs all other garnishees to comply or file a written response within 30 days after receiving the notice (current law requires all garnishees to comply or respond within 30 days after receiving the notice).

Provides that a financial institution is released from liability under a notice of garnishment when the financial institution complies with the notice; however, provides that a notice of garnishment to all other garnishees is released when the DOR sends a notice of release to the garnishee. Requires that the notice of release state the name and social security or federal identification number of the taxpayer to whom the release applies.

Amends GS 53B-4(2) to change authorization for government access to a customer's financial record that is held by a financial institution from under GS 105-251 (Information required of taxpayer and corrections based on information) to authorization under GS 105-242 (warrants for collection of taxes; garnishment and attachment; certificate or judgment for taxes).

Except as otherwise indicated, this act is effective when it becomes law.

Intro. by Brunstetter

GS 53B, 105, 147