

## COLLECTION OF STATE DEBTS

### Vermont

- Current law: tax setoffs
  - An agency or the judiciary can ask the Tax Department to setoff any debt it is owed (in excess of \$50) against any tax refund owed the debtor.
  - The agency has to certify the debt to Tax, and provide notice of the setoff to the debtor.
  - Priorities: any refund is first applied to any outstanding tax liability owed Tax, then against any debt certified by an agency. Multiple agency debts are prioritized in order of magnitude, with the largest debt being paid first.
  - Tax can calculate a per setoff collection fee each year, and assess that fee against the debtor.
  - Other states with reciprocity agreements may also certify debts to the Tax Department for setoff.
  - Setoff program works well, and is utilized by agencies, but does not work for all debts.
    - Only works where a refund is owed.
    - Does not apply to non-filers, non-payers, or people whose debt far exceeds any refund amount.
    - Tax gets first priority.
- Current law: collection of tax debts
  - Once a tax liability has been settled through the assessment and deficiency process, and through appeals, a person has 60 days to pay the liability.
  - After 60 days, the Commissioner has three remedies at his or her disposal.
    - Seize and sell personal property of the taxpayer by levy
    - Lien and foreclose upon real property
    - Have the Attorney General initiate a court action to garnish funds held by another (trustee process)
  - But Tax Department remedies only extend to tax debts that are have gone through the Tax Department process of assessment and appeal.
- Current practice: other non-tax debt
  - Other state agencies hold debts and have varying types of enforcement powers.
  - No coordinated effort - some agencies can contract with outside collections firms, some agencies have authority to file civil suit to collect debts, some agencies have more substantial powers, such as lien and garnishment powers.
  - Judiciary: 4 V.S.A. § 1109 and 13 V.S.A. § 7171

- Court Administrator can initiate contempt proceeding, including possibility of criminal contempt
  - Permits judiciary to contract with outside collections agency for uncollected debts for either straight fee or percentage of debt collected.
- ANR: 10 V.S.A. § 8014
  - Authorizes ANR to file a collections action, or to enter into agreement to have private collections agency.
  - Permits payment on straight fee or percentage basis.
- Department of Labor - UI contributions: 21 V.S.A. § 1329, 1336
  - Gives Labor power to lien real property and attach and garnish funds to collect delinquent UI contributions.
- Center for Crime Victims Services - Restitution Unit: 13 V.S.A. § 5362
  - Creates a unit for insuring crime victims receive restitution when ordered.
  - Unit is specifically created as a law enforcement agency, and given access to national law enforcement data.
  - Allows unit to use social security numbers, corrections data, credit reporting data, and civil enforcement powers.

## **OTHER STATES**

- Department of Revenue -- Wisconsin, Minnesota
  - Both states create a setoff program similar to Vermont.
  - But in addition, both require executive agencies to assign debt to Revenue Department for collections. Both allow judiciary and local governments to assign debts by agreement.
  - Have a separate collections divisions with governmental powers to levy, attach/garnish, lien, and foreclose.
  - Have collections protocols spelled out in law and regulations.
- Attorney General's Office - Ohio
  - Separate collections division within Attorney General's Office.
  - Has power to collect debt itself or contract out part of state debt portfolio.