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COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

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Handwritten initials



B-199382

JULY 17, 1980

✓ The Honorable Jim Sasser
Chairman, Subcommittee on the
Legislative Branch
Committee on Appropriations
United States Senate

JEN 00320



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Dear Mr. Chairman:

Subject: Oregon's Offset Program for Collecting
Delinquent Debts Has Been Highly
Effective (FGMSD-80-68)

Your letter of October 24, 1979, asked us to evaluate Oregon's program for collecting uncontested delinquent debts by keeping State tax refunds as offsets. You were interested in knowing the success of this program and its applicability to the Federal Government.

Oregon's offset program has been very successful in collecting delinquent debts. In 1979 alone, over \$2.4 million in delinquent debts that most likely would have been lost to the State were collected by offset. The State spent only about \$200,000 to collect this amount.

Oregon has collected significant amounts of money that would otherwise be uncollected while at the same time protecting the rights of the debtors. Only acknowledged debts of an undisputed amount are subject to offset. Strict controls have been implemented to ensure that (1) the debtor has every opportunity to establish that the debt is invalid and (2) tax refunds are not arbitrarily offset.

The Oregon program is similar to a Federal offset program we recommended in our March 9, 1979, report "The Government Can Collect Many Delinquent Debts By Keeping Federal Tax Refunds As Offsets" (FGMSD-79-19). In that report we proposed that, on a test basis, agencies refer to the Internal Revenue Service for offset those debts which the agencies have been unable to collect through normal collection procedures. The test program would include provisions to ensure that only undisputed debts were offset and to fully protect the debtor's right to due process. The Internal Revenue Service was unable

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to test the offset program because the Congress did not appropriate funds for the test.

We believe that a Federal offset program would repeat Oregon's success and result in significantly increased collections at relatively little additional cost. A discussion of Oregon's collection program and of how the State protects the rights of debtors follows.

OREGON COLLECTS DELINQUENT DEBTS BY OFFSET

In 1971 Oregon's Department of Revenue established a collection unit to collect delinquent amounts owed State agencies and State-supported hospitals, colleges, and universities. Among the debts collected are welfare overpayments, hospital bills, and student loan payments, including payments on National Direct Student Loans and Health Professions Student Loans. The unit collects only debts that are not in dispute--that is, the debtor has not denied owing the debt. The collection unit uses a variety of collection methods, including offset against State income tax refunds and refunds due debtors under a homeowners and renters relief program. In 1979, the collection unit collected \$2.6 million--\$2.4 million through offset--at a total cost of about \$200,000.

Oregon's State agencies have primary responsibility for debt collection. However, if a debt becomes delinquent and the agency is unable to collect from the debtor, the agency may submit the debt to the collection unit for either restricted or unrestricted collection, as discussed below.

Restricted program uses offset exclusively

Under the restricted program, known as Setoff of Individual Liability, the only collection procedure used is offset. Twice a year agencies submit the names and social security numbers of delinquent debtors to the collection unit. The agency referring a debt continues its collection efforts even though it has referred the debt to the collection unit.

The collection unit prepares a computer tape and computer cards with the names and social security numbers that were provided by the individual agencies. Before an income tax or homeowner and renters relief refund is issued, the computer tape of delinquent debtors is compared to the computer tape of refunds. If there is a match, the refund is put into a suspense account and the dollar amount of the refund is manually recorded on the computer card. This card is sent to the submitting agency which enters the dollar amount that is delinquent and returns the card to the

collection unit. The returned card is the collection unit's authority to make the offset.

Once the agency gives the collection unit this authority, the amount of the debt offset against the refund, less a collection fee, is sent to the agency. The agency is responsible for properly recording the full amount of the offset to the debtor's account. The collection fee is an administrative expense not chargeable to the debtor's account. In 1978, 10,195 accounts--totaling \$1.2 million--were offset through the restricted program. During 1979, 16,526 accounts totaling \$1.7 million were offset.

Unrestricted program uses offset and other methods to collect delinquent debts

Under the unrestricted program, agencies provide the collection unit with all available information on the debt and debtor, such as name, address, phone number, and name of relatives. Once the agency provides this information, it stops trying to collect and the collection unit takes all responsibility for collecting from the debtor.

The collection unit sends a letter notifying the debtor that the account has been assigned to the Oregon Department of Revenue for collection. The balance of the account is shown and the debtor is asked to contact the collection unit to discuss the debt. If the debtor does not respond to the letter, collection unit personnel telephone the debtor. If the debtor cannot be reached by telephone, collection unit personnel check the division of motor vehicles, credit bureaus, utility companies, and local merchants for the debtor's current address. In addition, if the debtor is due an income tax or homeowner and renters relief program refund, the refund will be applied against the debt.

All collections, including offsets, are provided to the creditor agency, less a collection fee. The agency is responsible for ensuring that the full amount collected is credited to the debtor's account.

During 1979, \$924,000 was collected using the unrestricted program; \$744,000 was by offset. As of February 1, 1980, the collection unit was responsible under the unrestricted program for collecting on 13,603 accounts totaling \$7 million.

DEBTORS' RIGHTS ARE PROTECTED

Oregon's Department of Revenue has established strict controls to ensure that debtors' rights to due process are protected and that tax refunds are not arbitrarily offset.

State agencies submit only uncontested debts to the collection unit for offset. These are debts which the debtor acknowledges are owed and there is no question as to the amount owed. The submitting agency must document that the debt is not in dispute before submitting it to the collection unit.

Before the collection unit offsets a refund it informs the debtor in writing that the refund is being held to be applied against a delinquent debt. The debtor is told that the offset will become final unless, within 30 days, the debtor requests a hearing with the creditor agency. Since the debts are not in dispute, few hearings are requested--only about 350 in 1978. Although the Department of Revenue does not keep data on the disposition of the hearings, officials stated that most hearings are resolved in the State's favor and seldom is the debtor relieved of responsibility for the debt.

Debtors who request hearings usually question the legality of the offset program, not the debt's validity. The legality of the program was affirmed in a June 1978 decision by the Oregon Court of Appeals. The court stated that the State has the right to offset funds in its possession against debts owed by its citizens and that debtors are not denied due process since each debtor has an opportunity to discuss with the appropriate creditor the validity and amount of the debt in question.

The procedures which are operating effectively in Oregon to protect debtors' rights are similar to procedures we proposed for the Internal Revenue Service test of a Federal offset program. In a July 31, 1979, letter to you, we stated that to protect the debtor's right to due process the agency referring a debt for offset must

- establish the debt's validity by giving the debtor ample opportunity to dispute the Government's claim,
- notify the debtor that the receivable was being transferred to the Internal Revenue Service for collection,
- give the debtor an opportunity to request a hearing on the offset, and
- notify the debtor when the debt was collected by offset.

As clearly demonstrated in Oregon, these procedures would fully protect the individual debtor's rights.

OFFSET WILL SUPPLEMENT
AGENCY COLLECTION SYSTEMS

As discussed in our March 9, 1979, report, although offset is a needed and useful tool for collecting delinquent debts, Federal agencies will still be primarily responsible for collecting debts resulting from their operations. This responsibility will not be shifted to the Internal Revenue Service by a tax refund offset program. The offset program will supplement, not replace, effective agency collection systems.

We strongly support and encourage the efforts agencies have made to collect all the money they are owed and to aggressively pursue delinquent debtors. However, as discussed in our January 15, 1980, report entitled "Unresolved Issues Impede Federal Debt Collection Efforts--A Status Report," (CD-80-1), a number of our reviews have disclosed that Government collection efforts are generally weak, particularly when debts are delinquent. We have recommended that agencies adopt more aggressive collection procedures, including such practices used by commercial firms as

- reporting delinquent debtors to credit bureaus,
- using locator services to locate delinquent debtors,
- making greater use of automation in the collection process, and
- improving demand for payment letters.

If agencies adopt and effectively implement these common commercial practices, collections would increase. However, some debts would remain uncollected simply because the debtor, while acknowledging the debt was valid, refused to pay. In many cases these debts are small and it is uneconomical for the Government to obtain a judgment against the debtor. These are the type of debts that could be economically collected by a tax refund offset. The offset would be made only when all other agency collection efforts fail.

Oregon officials told us that officials from other States have contacted them about establishing offset programs. In addition, the Council of State Governments recently completed a review of Oregon's offset program and will disseminate the information to all States. The Council expects more States to establish offset programs as a result.

CONCLUSIONS

We continue to believe that an income tax refund offset program is a logical, simple, and economical method of collecting debts that are uncollectible by any other means. An effective offset program would substantially reduce the over \$1 billion the Federal Government loses annually by writing off uncollectible debts.

The evidence favoring a test of a Federal offset program is overwhelming. Our March 9, 1979, report recommending such a test and the success of Oregon's offset program document the feasibility of collecting otherwise uncollectible debts by offsetting Federal income tax refunds. Also, collection by offset is warranted by equity concerns. It is patently unfair to citizens who pay their debts to allow other just debts owed the Government to go uncollected. This inequity is especially acute when the individual owing the debt does not dispute the debt or its amount and can pay but does not.

RECOMMENDATION

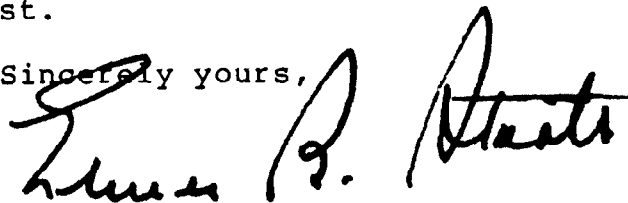
We continue to strongly support a Federal income tax refund offset program for collecting otherwise uncollectible debts and reiterate our earlier recommendation that the Congress provide funding for the Internal Revenue Service to test and adopt an offset program.

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At the request of your office, we did not obtain comments on matters discussed in this letter from the Internal Revenue Service. We discussed the part of the report covering Oregon's offset program with officials of the State's Department of Revenue. They said the information presented was accurate.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this letter until 30 days from its date. At that time we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,



Comptroller General
of the United States