

54A:9-8.4

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 125

NJSA: 54A:9-8.4 (Authorizes a multistate personal income tax refund set-off program)

BILL NO: S3004 (Substituted for A4409)

SPONSOR(S): Bryant and Cryan

DATE INTRODUCED: June 27, 2005

COMMITTEE: **ASSEMBLY:**
SENATE: Budget and Appropriations

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 30, 2005

SENATE: June 30, 2005

DATE OF APPROVAL: July 2, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

S3004

[SPONSOR'S STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A4409

[SPONSOR'S STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

IS 7/6/07

P.L. 2005, CHAPTER 125, *approved July 2, 2005*
Senate, No. 3004

1 **AN ACT** authorizing a multistate personal income tax refund set-off
2 program, supplementing Title 54A of the New Jersey Statutes.

3

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

6

7 1. a. As used in this section:

8 "Taxpayer" means any person identified by a claimant state, under
9 this section, as owing taxes to that claimant state, including the spouse
10 of the taxpayer if the spouse filed a joint return with the taxpayer for
11 the tax year for which tax is owed.

12 "Claimant state" means any other state of the United States, the
13 City of Philadelphia, Pennsylvania, New York City, New York, or the
14 District of Columbia that extends a like comity for the collection of tax
15 owed to this State.

16 "Taxes" means any amount of tax imposed on the income of an
17 individual or an estate and paid by the individual or estate under the
18 laws of the claimant state, including any additions to tax for penalties
19 and interest, which is finally due and payable to the claimant state, and
20 with respect to which any administrative or judicial remedies, or both,
21 have been exhausted or have lapsed, and which is legally enforceable
22 under the laws of the claimant state, whether or not there is an
23 outstanding judgment for such sum.

24 "Refund" means any taxpayer's claim to repayment of an
25 overpayment of gross income tax determined by this State to be owed
26 to the taxpayer by this State, after the overpayment has been applied
27 to any other debt of the taxpayer to this State.

28 "Tax officer" means a unit or official of a claimant state, or the duly
29 authorized agent of such unit or official, charged with the imposition,
30 assessment or collection of taxes of that state.

31 b. Upon the request and certification of the tax officer of a
32 claimant state, the director may withhold all or a portion of any refund
33 to which such taxpayer would otherwise be entitled and pay a withheld
34 amount to the claimant state, in accordance with the provisions of this
35 section. The director shall not withhold a refund unless the laws of the
36 claimant state: allow the director to certify that an individual or an
37 estate owes gross income tax, including any additions to tax for
38 penalties and interest, to this State and to request that the tax officer
39 of the claimant state withhold all or a portion of any claim to
40 repayment of an overpayment of tax imposed on the income of an
41 individual or an estate and paid by the individual or estate under the
42 laws of the claimant state to which such person would otherwise be
43 entitled and provide for the payment of such withheld amount to this
44 State.

45 c. A certification from a claimant state shall include the full name

1 and address of the taxpayer; the taxpayer's Social Security number or
2 federal employer identification number; the amount of individual
3 income tax owed to that state, including a detailed statement for each
4 taxable period showing tax, interest and penalty; and a statement that
5 any administrative or judicial remedies, or both, have been exhausted
6 or have lapsed and that the amount of individual income tax is legally
7 enforceable under the laws of that state.

8 d. Upon receipt by the director of the required certification, the
9 director shall notify the taxpayer: that the director received a request
10 to withhold the refund; that the taxpayer has the right to protest the
11 withholding of the refund; that failure to file a protest in accordance
12 with subsection e. of this section shall constitute a waiver of any
13 demand against this State on account of the withheld amount; and that
14 the withheld amount will be paid to the claimant state. The notice
15 shall include a copy of the certification by the tax officer of the
16 claimant state. Ninety-one days after the date on which it is mailed,
17 a notice under this subsection shall be final, except only for such
18 amounts as to which the taxpayer has filed a written protest with the
19 director, as provided in subsection e. of this section.

20 e. A taxpayer notified in accordance with subsection d. of this
21 section may, on or before the ninetieth day after the mailing of the
22 notice by the director, protest the withholding of a refund, by filing
23 with the director a written protest in which the taxpayer shall set forth
24 the grounds on which the protest is based. If a timely protest is filed,
25 the director shall impound the claimed amount of the refund and send
26 a copy of the protest to the claimant state for determination of the
27 protest on its merits in accordance with the laws of that state. The
28 director shall pay the impounded amount to the taxpayer, if the
29 claimant state fails, within 45 days of the director mailing the copy of
30 the protest to the claimant state, to certify that the claimant state has
31 reviewed the grounds on which the protest is based and to recertify the
32 amount of taxes which is finally due and payable to the claimant state.

33 f. Subject to the provisions of subsections d. and e. of this section,
34 the director shall: pay the claimant state the entire amount withheld or
35 the amount certified, whichever is less; pay any refund in excess of the
36 certified amount to the taxpayer; and, if the amount certified exceeds
37 the amount withheld, withhold amounts from subsequent refunds due
38 to the taxpayer, provided that claimant state agrees to withhold
39 subsequent claims to repayment of an overpayment of tax imposed on
40 the income of an individual or an estate and paid by the individual or
41 estate under the laws of the claimant state due to persons certified by
42 the director as owing gross income tax to this State.

43 g. For any refund amount paid to a claimant state under this
44 section, interest as provided under section 7 of P.L.1992, c.175
45 (C.54:49-15.1) or subsection (f) of N.J.S.54A:9-7 shall not be allowed
46 or paid to the claimant state, the taxpayer, or any other person or

1 entity.

2 h. The director may enter into agreements with the tax officers of
3 claimant states relating to procedures and methods to be employed by
4 a claimant state with respect to: the operation of this section;
5 safeguards against the disclosure or inappropriate use of any tax
6 record information that identifies, directly or indirectly, a particular
7 taxpayer; and a minimum amount of taxes owed by a taxpayer to a
8 claimant state, so that, if a taxpayer owes less than that amount to
9 such claimant state, the claimant state will not avail itself of the
10 provisions of this section with respect to that taxpayer.

11 i. The collection procedures prescribed by this section shall not be
12 construed as a substitute for any other remedy available by law to the
13 director.

14

15 2. This act shall take effect immediately.

16

17

18 STATEMENT

19

20 This bill authorizes a multistate reciprocal refund set-off program,
21 which allows the Director of the Division of Taxation to withhold
22 another state's tax claims from New Jersey gross income tax refunds
23 if the other state withholds New Jersey gross income tax claims from
24 its personal income tax refunds.

25 The bill allows the director to withhold some or all of a gross
26 income tax refunds to which a New Jersey taxpayer would otherwise
27 be entitled and pay a withheld amount to the claimant state. The
28 director is only authorized to do this if the other state allows the
29 director to make parallel claims against the other state's refunds to its
30 taxpayers.

31 The bill specifies the contents of the claim from another state and
32 requires the other state to include a statement that any administrative
33 or judicial remedies, or both, have been exhausted or have lapsed and
34 that the amount of individual income tax is legally enforceable under
35 the laws of that state.

36 On receipt by the director of a proper claim, the bill requires the
37 director to notify the taxpayer of the claim and of the taxpayer's right
38 of protest. Failure to file a protest within 90 days after notice
39 constitutes a waiver by the taxpayer, and the withheld amount will be
40 paid to the claimant state. If a taxpayer files a written protest within
41 90 days, the bill directs the director to impound the claimed amount of
42 the refund and send a copy of the protest to the claimant state for
43 determination of the protest on its merits in accordance with the laws
44 of that state. The bill requires the director to pay the impounded
45 amount to the taxpayer, if the claimant state fails, within 45 days of
46 the director mailing the copy of the protest to the claimant state, to

1 certify that the claimant state has reviewed the grounds on which the
2 protest is based and to recertify the amount of taxes owe to the
3 claimant state.

4 The bill requires the director to pay the claimant state the lesser of
5 the entire amount withheld or the amount certified, and pay any refund
6 in excess of the certified amount to the taxpayer; and, if the amount
7 certified exceeds the amount withheld, withhold amounts from
8 subsequent refunds due to the taxpayer. Provided however, the
9 director will on do this if the other state agrees to withhold subsequent
10 refunds due to persons certified by the director as owing gross income
11 tax to New Jersey.

12 The bill authorizes the director to enter into agreements with the
13 tax officers of other states relating to procedures for these set-offs,
14 safeguards against the disclosure or inappropriate use of any tax
15 record information, and minimum amount of taxes owed that will be
16 subject to these procedures.

17

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19

20

21 Authorizes a multistate personal income tax refund set-off program.

SENATE, No. 3004

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JUNE 27, 2005

Sponsored by:

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

Assemblyman JOSEPH CRYAN

District 20 (Union)

SYNOPSIS

Authorizes a multistate personal income tax refund set-off program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/1/2005)

S3004 BRYANT

2

1 AN ACT authorizing a multistate personal income tax refund set-off
2 program, supplementing Title 54A of the New Jersey Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. a. As used in this section:

8 "Taxpayer" means any person identified by a claimant state, under
9 this section, as owing taxes to that claimant state, including the spouse
10 of the taxpayer if the spouse filed a joint return with the taxpayer for
11 the tax year for which tax is owed.

12 "Claimant state" means any other state of the United States, the
13 City of Philadelphia, Pennsylvania, New York City, New York, or the
14 District of Columbia that extends a like comity for the collection of tax
15 owed to this State.

16 "Taxes" means any amount of tax imposed on the income of an
17 individual or an estate and paid by the individual or estate under the
18 laws of the claimant state, including any additions to tax for penalties
19 and interest, which is finally due and payable to the claimant state, and
20 with respect to which any administrative or judicial remedies, or both,
21 have been exhausted or have lapsed, and which is legally enforceable
22 under the laws of the claimant state, whether or not there is an
23 outstanding judgment for such sum.

24 "Refund" means any taxpayer's claim to repayment of an
25 overpayment of gross income tax determined by this State to be owed
26 to the taxpayer by this State, after the overpayment has been applied
27 to any other debt of the taxpayer to this State.

28 "Tax officer" means a unit or official of a claimant state, or the duly
29 authorized agent of such unit or official, charged with the imposition,
30 assessment or collection of taxes of that state.

31 b. Upon the request and certification of the tax officer of a
32 claimant state, the director may withhold all or a portion of any refund
33 to which such taxpayer would otherwise be entitled and pay a withheld
34 amount to the claimant state, in accordance with the provisions of this
35 section. The director shall not withhold a refund unless the laws of the
36 claimant state: allow the director to certify that an individual or an
37 estate owes gross income tax, including any additions to tax for
38 penalties and interest, to this State and to request that the tax officer
39 of the claimant state withhold all or a portion of any claim to
40 repayment of an overpayment of tax imposed on the income of an
41 individual or an estate and paid by the individual or estate under the
42 laws of the claimant state to which such person would otherwise be
43 entitled and provide for the payment of such withheld amount to this
44 State.

45 c. A certification from a claimant state shall include the full name
46 and address of the taxpayer; the taxpayer's Social Security number or

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1 federal employer identification number; the amount of individual
2 income tax owed to that state, including a detailed statement for each
3 taxable period showing tax, interest and penalty; and a statement that
4 any administrative or judicial remedies, or both, have been exhausted
5 or have lapsed and that the amount of individual income tax is legally
6 enforceable under the laws of that state.

7 d. Upon receipt by the director of the required certification, the
8 director shall notify the taxpayer: that the director received a request
9 to withhold the refund; that the taxpayer has the right to protest the
10 withholding of the refund; that failure to file a protest in accordance
11 with subsection e. of this section shall constitute a waiver of any
12 demand against this State on account of the withheld amount; and that
13 the withheld amount will be paid to the claimant state. The notice
14 shall include a copy of the certification by the tax officer of the
15 claimant state. Ninety-one days after the date on which it is mailed,
16 a notice under this subsection shall be final, except only for such
17 amounts as to which the taxpayer has filed a written protest with the
18 director, as provided in subsection e. of this section.

19 e. A taxpayer notified in accordance with subsection d. of this
20 section may, on or before the ninetieth day after the mailing of the
21 notice by the director, protest the withholding of a refund, by filing
22 with the director a written protest in which the taxpayer shall set forth
23 the grounds on which the protest is based. If a timely protest is filed,
24 the director shall impound the claimed amount of the refund and send
25 a copy of the protest to the claimant state for determination of the
26 protest on its merits in accordance with the laws of that state. The
27 director shall pay the impounded amount to the taxpayer, if the
28 claimant state fails, within 45 days of the director mailing the copy of
29 the protest to the claimant state, to certify that the claimant state has
30 reviewed the grounds on which the protest is based and to recertify the
31 amount of taxes which is finally due and payable to the claimant state.

32 f. Subject to the provisions of subsections d. and e. of this section,
33 the director shall: pay the claimant state the entire amount withheld or
34 the amount certified, whichever is less; pay any refund in excess of the
35 certified amount to the taxpayer; and, if the amount certified exceeds
36 the amount withheld, withhold amounts from subsequent refunds due
37 to the taxpayer, provided that claimant state agrees to withhold
38 subsequent claims to repayment of an overpayment of tax imposed on
39 the income of an individual or an estate and paid by the individual or
40 estate under the laws of the claimant state due to persons certified by
41 the director as owing gross income tax to this State.

42 g. For any refund amount paid to a claimant state under this
43 section, interest as provided under section 7 of P.L.1992, c.175
44 (C.54:49-15.1) or subsection (f) of N.J.S.54A:9-7 shall not be allowed
45 or paid to the claimant state, the taxpayer, or any other person or
46 entity.

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1 h. The director may enter into agreements with the tax officers of
2 claimant states relating to procedures and methods to be employed by
3 a claimant state with respect to: the operation of this section;
4 safeguards against the disclosure or inappropriate use of any tax
5 record information that identifies, directly or indirectly, a particular
6 taxpayer; and a minimum amount of taxes owed by a taxpayer to a
7 claimant state, so that, if a taxpayer owes less than that amount to
8 such claimant state, the claimant state will not avail itself of the
9 provisions of this section with respect to that taxpayer.

10 i. The collection procedures prescribed by this section shall not be
11 construed as a substitute for any other remedy available by law to the
12 director.

13
14 2. This act shall take effect immediately.

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16
17 STATEMENT

18
19 This bill authorizes a multistate reciprocal refund set-off program,
20 which allows the Director of the Division of Taxation to withhold
21 another state's tax claims from New Jersey gross income tax refunds
22 if the other state withholds New Jersey gross income tax claims from
23 its personal income tax refunds.

24 The bill allows the director to withhold some or all of a gross
25 income tax refunds to which a New Jersey taxpayer would otherwise
26 be entitled and pay a withheld amount to the claimant state. The
27 director is only authorized to do this if the other state allows the
28 director to make parallel claims against the other state's refunds to its
29 taxpayers.

30 The bill specifies the contents of the claim from another state and
31 requires the other state to include a statement that any administrative
32 or judicial remedies, or both, have been exhausted or have lapsed and
33 that the amount of individual income tax is legally enforceable under
34 the laws of that state.

35 On receipt by the director of a proper claim, the bill requires the
36 director to notify the taxpayer of the claim and of the taxpayer's right
37 of protest. Failure to file a protest within 90 days after notice
38 constitutes a waiver by the taxpayer, and the withheld amount will be
39 paid to the claimant state. If a taxpayer files a written protest within
40 90 days, the bill directs the director to impound the claimed amount of
41 the refund and send a copy of the protest to the claimant state for
42 determination of the protest on its merits in accordance with the laws
43 of that state. The bill requires the director to pay the impounded
44 amount to the taxpayer, if the claimant state fails, within 45 days of
45 the director mailing the copy of the protest to the claimant state, to
46 certify that the claimant state has reviewed the grounds on which the

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1 protest is based and to recertify the amount of taxes owe to the
2 claimant state.

3 The bill requires the director to pay the claimant state the lesser of
4 the entire amount withheld or the amount certified, and pay any refund
5 in excess of the certified amount to the taxpayer; and, if the amount
6 certified exceeds the amount withheld, withhold amounts from
7 subsequent refunds due to the taxpayer. Provided however, the
8 director will on do this if the other state agrees to withhold subsequent
9 refunds due to persons certified by the director as owing gross income
10 tax to New Jersey.

11 The bill authorizes the director to enter into agreements with the
12 tax officers of other states relating to procedures for these set-offs,
13 safeguards against the disclosure or inappropriate use of any tax
14 record information, and minimum amount of taxes owed that will be
15 subject to these procedures.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3004

STATE OF NEW JERSEY

DATED: JUNE 29, 2005

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3004.

This bill authorizes a multistate reciprocal refund set-off program, which allows the Director of the Division of Taxation to withhold another state's tax claims from New Jersey gross income tax refunds if the other state withholds New Jersey gross income tax claims from its personal income tax refunds.

The bill allows the director to withhold some or all of a gross income tax refunds to which a New Jersey taxpayer would otherwise be entitled and pay a withheld amount to the claimant state. The director is only authorized to do this if the other state allows the director to make parallel claims against the other state's refunds to its taxpayers.

The bill specifies the contents of the claim from another state and requires the other state to include a statement that any administrative or judicial remedies, or both, have been exhausted or have lapsed and that the amount of individual income tax is legally enforceable under the laws of that state.

On receipt by the director of a proper claim, the bill requires the director to notify the taxpayer of the claim and of the taxpayer's right of protest. Failure to file a protest within 90 days after notice constitutes a waiver by the taxpayer, and the withheld amount will be paid to the claimant state. If a taxpayer files a written protest within 90 days, the bill directs the director to impound the claimed amount of the refund and send a copy of the protest to the claimant state for determination of the protest on its merits in accordance with the laws of that state. The bill requires the director to pay the impounded amount to the taxpayer, if the claimant state fails, within 45 days of the director mailing the copy of the protest to the claimant state, to certify that the claimant state has reviewed the grounds on which the protest is based and to recertify the amount of taxes owe to the claimant state.

The bill requires the director to pay the claimant state the lesser of the entire amount withheld or the amount certified, and pay any refund in excess of the certified amount to the taxpayer; and, if the amount certified exceeds the amount withheld, withhold amounts from subsequent refunds due to the taxpayer. Provided however, the

director will on do this if the other state agrees to withhold subsequent refunds due to persons certified by the director as owing gross income tax to New Jersey.

The bill authorizes the director to enter into agreements with the tax officers of other states relating to procedures for these set-offs, safeguards against the disclosure or inappropriate use of any tax record information, and minimum amount of taxes owed that will be subject to these procedures.

FISCAL IMPACT:

The Office of Legislative Services has no information with which to quantify the fiscal impact of this bill. Any potential unpaid tax liabilities that may be collected are contingent on other states' adopting similar legislation, and entering into agreements with New Jersey concerning cooperative personal income tax refund set-off programs.

ASSEMBLY, No. 4409

STATE OF NEW JERSEY

211th LEGISLATURE

INTRODUCED JUNE 27, 2005

Sponsored by:
Assemblyman JOSEPH CRYAN
District 20 (Union)

SYNOPSIS

Authorizes a multistate personal income tax refund set-off program.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT authorizing a multistate personal income tax refund set-off
2 program, supplementing Title 54A of the New Jersey Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. As used in this section:

8 "Taxpayer" means any person identified by a claimant state, under
9 this section, as owing taxes to that claimant state, including the spouse
10 of the taxpayer if the spouse filed a joint return with the taxpayer for
11 the tax year for which tax is owed.

12 "Claimant state" means any other state of the United States, the
13 City of Philadelphia, Pennsylvania, New York City, New York, or the
14 District of Columbia that extends a like comity for the collection of tax
15 owed to this State.

16 "Taxes" means any amount of tax imposed on the income of an
17 individual or an estate and paid by the individual or estate under the
18 laws of the claimant state, including any additions to tax for penalties
19 and interest, which is finally due and payable to the claimant state, and
20 with respect to which any administrative or judicial remedies, or both,
21 have been exhausted or have lapsed, and which is legally enforceable
22 under the laws of the claimant state, whether or not there is an
23 outstanding judgment for such sum.

24 "Refund" means any taxpayer's claim to repayment of an
25 overpayment of gross income tax determined by this State to be owed
26 to the taxpayer by this State, after the overpayment has been applied
27 to any other debt of the taxpayer to this State.

28 "Tax officer" means a unit or official of a claimant state, or the duly
29 authorized agent of such unit or official, charged with the imposition,
30 assessment or collection of taxes of that state.

31 b. Upon the request and certification of the tax officer of a
32 claimant state, the director may withhold all or a portion of any refund
33 to which such taxpayer would otherwise be entitled and pay a withheld
34 amount to the claimant state, in accordance with the provisions of this
35 section. The director shall not withhold a refund unless the laws of the
36 claimant state: allow the director to certify that an individual or an
37 estate owes gross income tax, including any additions to tax for
38 penalties and interest, to this State and to request that the tax officer
39 of the claimant state withhold all or a portion of any claim to
40 repayment of an overpayment of tax imposed on the income of an
41 individual or an estate and paid by the individual or estate under the
42 laws of the claimant state to which such person would otherwise be
43 entitled and provide for the payment of such withheld amount to this
44 State.

45 c. A certification from a claimant state shall include the full name
46 and address of the taxpayer; the taxpayer's Social Security number or

1 federal employer identification number; the amount of individual
2 income tax owed to that state, including a detailed statement for each
3 taxable period showing tax, interest and penalty; and a statement that
4 any administrative or judicial remedies, or both, have been exhausted
5 or have lapsed and that the amount of individual income tax is legally
6 enforceable under the laws of that state.

7 d. Upon receipt by the director of the required certification, the
8 director shall notify the taxpayer: that the director received a request
9 to withhold the refund; that the taxpayer has the right to protest the
10 withholding of the refund; that failure to file a protest in accordance
11 with subsection e. of this section shall constitute a waiver of any
12 demand against this State on account of the withheld amount; and that
13 the withheld amount will be paid to the claimant state. The notice
14 shall include a copy of the certification by the tax officer of the
15 claimant state. Ninety-one days after the date on which it is mailed,
16 a notice under this subsection shall be final, except only for such
17 amounts as to which the taxpayer has filed a written protest with the
18 director, as provided in subsection e. of this section.

19 e. A taxpayer notified in accordance with subsection d. of this
20 section may, on or before the ninetieth day after the mailing of the
21 notice by the director, protest the withholding of a refund, by filing
22 with the director a written protest in which the taxpayer shall set forth
23 the grounds on which the protest is based. If a timely protest is filed,
24 the director shall impound the claimed amount of the refund and send
25 a copy of the protest to the claimant state for determination of the
26 protest on its merits in accordance with the laws of that state. The
27 director shall pay the impounded amount to the taxpayer, if the
28 claimant state fails, within 45 days of the director mailing the copy of
29 the protest to the claimant state, to certify that the claimant state has
30 reviewed the grounds on which the protest is based and to recertify the
31 amount of taxes which is finally due and payable to the claimant state.

32 f. Subject to the provisions of subsections d. and e. of this section,
33 the director shall: pay the claimant state the entire amount withheld or
34 the amount certified, whichever is less; pay any refund in excess of the
35 certified amount to the taxpayer; and, if the amount certified exceeds
36 the amount withheld, withhold amounts from subsequent refunds due
37 to the taxpayer, provided that claimant state agrees to withhold
38 subsequent claims to repayment of an overpayment of tax imposed on
39 the income of an individual or an estate and paid by the individual or
40 estate under the laws of the claimant state due to persons certified by
41 the director as owing gross income tax to this State.

42 g. For any refund amount paid to a claimant state under this
43 section, interest as provided under section 7 of P.L.1992, c.175
44 (C.54:49-15.1) or subsection (f) of N.J.S.54A:9-7 shall not be allowed
45 or paid to the claimant state, the taxpayer, or any other person or
46 entity.

1 h. The director may enter into agreements with the tax officers of
2 claimant states relating to procedures and methods to be employed by
3 a claimant state with respect to: the operation of this section;
4 safeguards against the disclosure or inappropriate use of any tax
5 record information that identifies, directly or indirectly, a particular
6 taxpayer; and a minimum amount of taxes owed by a taxpayer to a
7 claimant state, so that, if a taxpayer owes less than that amount to
8 such claimant state, the claimant state will not avail itself of the
9 provisions of this section with respect to that taxpayer.

10 i. The collection procedures prescribed by this section shall not be
11 construed as a substitute for any other remedy available by law to the
12 director.

13
14 2. This act shall take effect immediately.

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16
17 STATEMENT

18
19 This bill authorizes a multistate reciprocal refund set-off program,
20 which allows the Director of the Division of Taxation to withhold
21 another state's tax claims from New Jersey gross income tax refunds
22 if the other state withholds New Jersey gross income tax claims from
23 its personal income tax refunds.

24 The bill allows the director to withhold some or all of a gross
25 income tax refunds to which a New Jersey taxpayer would otherwise
26 be entitled and pay a withheld amount to the claimant state. The
27 director is only authorized to do this if the other state allows the
28 director to make parallel claims against the other state's refunds to its
29 taxpayers.

30 The bill specifies the contents of the claim from another state and
31 requires the other state to include a statement that any administrative
32 or judicial remedies, or both, have been exhausted or have lapsed and
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35 On receipt by the director of a proper claim, the bill requires the
36 director to notify the taxpayer of the claim and of the taxpayer's right
37 of protest. Failure to file a protest within 90 days after notice
38 constitutes a waiver by the taxpayer, and the withheld amount will be
39 paid to the claimant state. If a taxpayer files a written protest within
40 90 days, the bill directs the director to impound the claimed amount of
41 the refund and send a copy of the protest to the claimant state for
42 determination of the protest on its merits in accordance with the laws
43 of that state. The bill requires the director to pay the impounded
44 amount to the taxpayer, if the claimant state fails, within 45 days of
45 the director mailing the copy of the protest to the claimant state, to
46 certify that the claimant state has reviewed the grounds on which the

1 protest is based and to recertify the amount of taxes owe to the
2 claimant state.

3 The bill requires the director to pay the claimant state the lesser of
4 the entire amount withheld or the amount certified, and pay any refund
5 in excess of the certified amount to the taxpayer; and, if the amount
6 certified exceeds the amount withheld, withhold amounts from
7 subsequent refunds due to the taxpayer. Provided however, the
8 director will on do this if the other state agrees to withhold subsequent
9 refunds due to persons certified by the director as owing gross income
10 tax to New Jersey.

11 The bill authorizes the director to enter into agreements with the
12 tax officers of other states relating to procedures for these set-offs,
13 safeguards against the disclosure or inappropriate use of any tax
14 record information, and minimum amount of taxes owed that will be
15 subject to these procedures.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4409

STATE OF NEW JERSEY

DATED: JUNE 29, 2005

The Assembly Budget Committee reports favorably Assembly Bill No. 4409.

Assembly Bill No. 4409 authorizes a multistate reciprocal refund set-off program, which allows the Director of the Division of Taxation to withhold another state's tax claims from New Jersey gross income tax refunds if the other state withholds New Jersey gross income tax claims from its personal income tax refunds.

The bill allows the director to withhold some or all of a gross income tax refunds to which a New Jersey taxpayer would otherwise be entitled and pay a withheld amount to the claimant state. The director is only authorized to do this if the other state allows the director to make parallel claims against the other state's refunds to its taxpayers.

The bill specifies the contents of the claim from another state and requires the other state to include a statement that any administrative or judicial remedies, or both, have been exhausted or have lapsed and that the amount of individual income tax is legally enforceable under the laws of that state.

On receipt by the director of a proper claim, the bill requires the director to notify the taxpayer of the claim and of the taxpayer's right of protest. Failure to file a protest within 90 days after notice constitutes a waiver by the taxpayer, and the withheld amount will be paid to the claimant state. If a taxpayer files a written protest within 90 days, the bill directs the director to impound the claimed amount of the refund and send a copy of the protest to the claimant state for determination of the protest on its merits in accordance with the laws of that state. The bill requires the director to pay the impounded amount to the taxpayer, if the claimant state fails, within 45 days of the director mailing the copy of the protest to the claimant state, to certify that the claimant state has reviewed the grounds on which the protest is based and to recertify the amount of taxes owe to the claimant state.

The bill requires the director to pay the claimant state the lesser of the entire amount withheld or the amount certified, and pay any refund in excess of the certified amount to the taxpayer; and, if the amount certified exceeds the amount withheld, withhold amounts from subsequent refunds due to the taxpayer. Provided however, the

director will on do this if the other state agrees to withhold subsequent refunds due to persons certified by the director as owing gross income tax to New Jersey.

The bill authorizes the director to enter into agreements with the tax officers of other states relating to procedures for these set-offs, safeguards against the disclosure or inappropriate use of any tax record information, and minimum amount of taxes owed that will be subject to these procedures.

FISCAL IMPACT:

Informal estimates by the Executive Branch indicate that the increased revenues under the bill could exceed \$5 million annually.