

Collection of Debts From Overpayments  
Past-Due Support Obligations

Chapter 809 of the Laws of 1985 amended several provisions of the New York State Tax Law relating to the crediting of overpayments of New York State, City of New York and City of Yonkers personal income and earnings taxes against past-due support obligations. Overpayments of income taxes will now be applied against past-due spousal support (alimony) and past-due child support owed to recipients and non-recipients of Aid for Dependent Children.

Section 171-c(2) of the Tax Law, as amended, defines past-due support as an amount which is owed to persons entitled to enforce an order of support. An order of support means any final order, decree or judgement in a matrimonial action or family court proceeding, or any foreign support order, decree or judgement which is registered pursuant to section 37-a of the domestic relations law, which requires the payment of alimony, maintenance, support or child support. Past-due support means the amount of a delinquency determined from an order of support no longer subject to appellate judicial review.

Section 171-c(5)(ii) has been amended to provide that where a taxpayer owes past-due support to more than one person or entity, and the total amount of past-due support exceeds the amount of the overpayment, the Department of Social Services shall determine and distribute to each person or entity a pro rata share of the overpayment.

These amendments are effective September 1, 1985, and apply to refunds of overpayments issued on or after that date.

Cross reference:  
Collection of Debts from Overpayments  
(Past-due Child Support and Defaulted Student Loans)

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