Understanding How to Maximize Your State’s UI Recoveries with TOP

NASWA 2015 National UI Director’s Conference and IT/Legal Issues Forum
Albuquerque, NM

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Agenda

- Fiscal Service Delinquent Debt Collections
- Debt Collection Legal Authorities
- Treasury Offset Program Basics
- TOP UI Programs: Benefits and Employer Tax
- Implementing UI Employer Tax
- Batch Testing for UI Employer Tax
- TOP Communication with States
- Questions
Fiscal Service Delinquent Debt Collections

• The Bureau of the Fiscal Service (Fiscal Service) collects delinquent debts for federal and state agencies (non-tax and tax) primarily through two programs: the Treasury Offset Program (TOP) and the Cross-Servicing Program.

• Fiscal Service has collected a total of $7.28 billion in FY 2015 (as of September 30)
  − Treasury Offset Program - $7.04 billion
  − Cross-Servicing Program - $239.5 million
Fiscal Service has collected a total of $3.2 billion in FY 2015 through the TOP State Programs (as of 9/30/15)

- Child Support - $1.89 billion
- Supplemental Nutrition Assistance Program (SNAP) - $153.2 million
- State Income Tax - $571.2 million
- State Reciprocal - $47.7 million
- Unemployment Insurance - $547.8 million
The Federal Government’s administrative debt collection activities are governed by a number of Federal laws, including:

- Internal Revenue Code, Title 26 of the United States Code
- Bankruptcy Code, Title 11 of the United States Code
- Privacy Act of 1974, 5 U.S.C. § 552a
- Other statutes that apply to specific agencies, debt types or payment types
- Treasury regulations, OMB policies, agency-specific regulations
Treasury Offset Program (TOP) Basics
Treasury Offset Program (TOP)

- TOP is a centralized offset program administered by the U.S. Department of the Treasury, Bureau of the Fiscal Service, to collect delinquent debts owed to federal agencies and states.

- Creditor agencies submit eligible debts to TOP and certify that debts are **valid, delinquent, and legally enforceable**, and that **all due process prerequisites have been met**.
  - Due process prerequisites include:
    - 60-day prior notice to the debtor
    - Opportunity to dispute the debt

- TOP sends notices to debtors when payments are offset. For recurring payments, TOP sends warning notices 60 and 30 days prior to the first offset.
TOP State Programs

- **State Income Tax Program (SIT)** - TOP offsets federal tax refund payments to payees who owe delinquent state income tax obligations.

- **State Reciprocal Program (SRP)** - TOP offsets federal vendor and other non-tax payments to payees who owe delinquent debts to state agencies. In return, states offset payments to payees who owe delinquent debts to federal agencies.

- **Unemployment Insurance (UI) Debts** - In partnership with the U.S. Department of Labor, TOP offsets federal tax refund payments to 1) payees who owe delinquent unemployment insurance compensation debts due to fraud or a person’s failure to report earnings; and 2) payees who owe UI employer tax debts.

- **Child Support Program** - States submit delinquent child support obligations to the Office of Child Support Enforcement (OCSE), which in turn submits the debts to TOP for collection through the offset of federal tax refund and other eligible payments.

- **Supplemental Nutritional Assistance Program** - The Department of Agriculture-Food and Nutrition Service (FNS), in collaboration with state offices administering the Food Stamp Program, submit food stamp recipient debts to Treasury for offset of tax refund, federal vendor, salary, federal retirement, Social Security, Railroad Retirement, and state payments.
## TOP State Delinquent Debt Collections
### FY 2010 – 2015 (in millions)

<table>
<thead>
<tr>
<th>PROGRAM</th>
<th>FY 2010</th>
<th>FY 2011</th>
<th>FY 2012</th>
<th>FY 2013</th>
<th>FY 2014</th>
<th>FY 2015*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child Support</td>
<td>$2,106.7</td>
<td>$2,312.9</td>
<td>$2,254.8</td>
<td>$1,949.9</td>
<td>$1,910.0</td>
<td>$1,896.7</td>
</tr>
<tr>
<td>Income Tax</td>
<td>$434.5</td>
<td>$475.5</td>
<td>$561.8</td>
<td>$605.3</td>
<td>$546.5</td>
<td>$571.2</td>
</tr>
<tr>
<td>SNAP</td>
<td>$84.6</td>
<td>$102.5</td>
<td>$118.0</td>
<td>$119.1</td>
<td>$131.5</td>
<td>$153.2</td>
</tr>
<tr>
<td>State Reciprocal</td>
<td>$15.9</td>
<td>$36.3</td>
<td>$53.8</td>
<td>$37.8</td>
<td>$52.3</td>
<td>$47.7</td>
</tr>
<tr>
<td><strong>Unemployment Insurance</strong></td>
<td><strong>$25.9</strong></td>
<td><strong>$132.9</strong></td>
<td><strong>$326.2</strong></td>
<td><strong>$370.7</strong></td>
<td><strong>$547.8</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Grand Totals</strong></td>
<td><strong>$2,641.7</strong></td>
<td><strong>$2,953.1</strong></td>
<td><strong>$3,121.3</strong></td>
<td><strong>$3,038.3</strong></td>
<td><strong>$3,011.2</strong></td>
<td><strong>$3,216.6</strong></td>
</tr>
</tbody>
</table>

* As of September 30, 2015
How Does TOP Work?

• TOP compares payee names and Taxpayer Identification Numbers (TINs) on certified payments to names and TINs of debtors in TOP’s delinquent debtor database.

• When a match occurs on both, TOP intercepts, or offsets, all or part of a payee’s eligible federal or state payment.

• Fiscal Service notifies both the payee and the payment agency about the offset.

• Fiscal Service provides the funds collected to the creditor agency.

A TIN is an individual’s Social Security Number or a business’ Federal Employer ID Number.
The TOP Process

- Check or EFT to payee
- Notice to debtor
- $$ to creditor agency
TOP Unemployment Insurance Programs: Benefits and Employer Tax
TOP UI Benefits and Employer Tax

• In partnership with the U.S. Department of Labor, TOP offsets federal tax refund payments to:
  – Payees who owe delinquent unemployment insurance (UI) compensation (benefit) debts due to fraud or a person’s failure to report earnings; and
  – Payees who owe UI employer tax debts

• In 2015, Federal law requires that states must use TOP to collect both certain claimant overpayments and unpaid UI employer taxes.
UI Legal Citations

• 9/30/2008, Public Law No. 110-328 permits states to use TOP to recover covered UI compensation (Benefits) debt through offset from Federal income tax refunds.

• 12/26/13, Public Law No. 113-67 requires states to utilize TOP to recover a covered UI debt (Benefits and unpaid UI Employer Tax) that remains uncollected as of one year after the debt was determined due.

• Internal Revenue Code requires states to give debtor 60-days notice of the intent to offset.

• Treasury regulations require states to certify to Fiscal Service that the debts are valid, delinquent, and legally enforceable, and that all due process prerequisites have been met.
UI Employer Tax Background

- December 2014, IRS Counsel determines that the TOP program may be used to collect certain unpaid employer UI taxes
- TOP may be used to collect all UI employer tax debt that meets the requirements of one-year old and 60-day notification
- That includes UI employer tax debt for all entity types, including sole proprietors, partnerships, corporations, and LLCs.
- State contractor staff can be used to collect employer tax through TOP
  (Note: State contractor staff cannot be used to collect claimant overpayments through TOP)
TOP FY 2015 UI Collections

• 41 States and the District of Columbia participate in UI Benefits

• 6 States and the District of Columbia participate in UI Employer Tax

• TOP UI Collections
  – FY 2011 - $25.9 million
  – FY 2012 - $132.9 million
  – FY 2013 - $326.2 million
  – FY 2014 - $370.7 million
  – FY 2015 - $547.8 million (as of Sept 30)

• As of February 2015, the TOP UI Benefit program has recovered more than $1 billion for states.
<table>
<thead>
<tr>
<th>Rank</th>
<th>State</th>
<th>Collections</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>California</td>
<td>$197.5 million</td>
</tr>
<tr>
<td>2</td>
<td>Michigan</td>
<td>$32.5 million</td>
</tr>
<tr>
<td>3</td>
<td>New Jersey</td>
<td>$32.1 million</td>
</tr>
<tr>
<td>4</td>
<td>New York</td>
<td>$30.3 million</td>
</tr>
<tr>
<td>5</td>
<td>Illinois</td>
<td>$24.1 million</td>
</tr>
<tr>
<td>6</td>
<td>Pennsylvania</td>
<td>$21.8 million</td>
</tr>
<tr>
<td>7</td>
<td>Florida</td>
<td>$14.9 million</td>
</tr>
<tr>
<td>8</td>
<td>Ohio</td>
<td>$14.3 million</td>
</tr>
<tr>
<td>9</td>
<td>Maryland</td>
<td>$13.5 million</td>
</tr>
<tr>
<td>10</td>
<td>North Carolina</td>
<td>$13.3 million</td>
</tr>
</tbody>
</table>
Implementing TOP’s UI Employer Tax
Implementation of UI Employer Tax

- States New to UI Benefits Program
  - State, IRS, and Fiscal Service (FS) discussions
    - Approved Safeguards Security Report (SSR)
  - Implementation meetings with Fiscal Service
    - 60-Day Notices to Debtors
    - Implementation Documents
    - Implementation Date
  - Charging TOP Fees
  - Batch or Online Client
  - Application Testing with TOP Testers (for Batch)
  - Connectivity Testing with FS ISS Office
Implementation of UI Employer Tax

- **States Currently Participating in UI Benefit Program**
  - Implementation meetings with Fiscal Service
    - 60-Day Notices to Debtors
    - Implementation Documents
    - Implementation Date
  - Charging TOP Fees
  - Batch or Online Client
  - Application Testing with TOP Testers (for Batch)
  - Connectivity Testing with FS ISS Office
  - Update SSR in the next regular submission
Fiscal Service Documents

- Agency Profile
- Security Access Requests
- ACH Form
- Debt Certification Agreement
- TOP Agency Guide
- TOP Enhanced Record Layouts v3.8.1
Batch Testing for UI Employer Tax
Process Requirements for Batch Implementation

• Identify State Contacts – technical, state employees, contractors
• Review all Technical Specifications – TOP Enhanced Record Layouts (V3.8.1), supplemental data provided, FS sample test scenarios
• Elaboration/Analysis & Design Phase - technical questions to TOP Test Team, notify if state is including additional test scenarios, requires any actions, or scenarios re-tested
• Provide State Target Implementation Date
• Complete/Return Agency Profile Form
Process Requirements for Batch Implementation

- Conduct scheduled batch implementation testing
- Contact FS Information and Security Services (ISS) On-Boarding Team to establish production connectivity using SFTP or Connect:Direct
- Functionality Testing
- Application Testing
- FS Accounting Test ACH Process
File Formats

• TOP Enhanced Record Layouts version 3.8.1
• UI Employer Tax – Agency ID vs. Agency Site ID
Test Scenarios

• Standard Test Scenarios
• Scope – Limited Testing
• Key Functionality
  – Combining Debt Types
    • Update File (to FS)
    • Weekly Collection File (to States)
  – Separating and Protecting Tax Information
  – Joint & Several Debt
TOP Communication with States
Annual Report to the States

Includes:
• Message from the Commissioner of the Bureau of Fiscal Service on TOP’s annual delinquent debt collections for states
• Review of TOP’s 5 state programs and the recovery totals for each over the past 5 years
• State-by-state breakdown of participation with each of TOP’s programs and debt collection totals

Available online at: 
www.fiscal.treasury.gov/TOPStatePrograms
The *Offsets Matter* newsletter is distributed quarterly by the Bureau of Fiscal Service, Treasury Offset Program (TOP) Division and provides the latest information for state agencies about the following TOP State Programs:

- Child Support
- Income Tax Program
- Reciprocal Program
- Supplemental Nutrition Assistance Program (SNAP)
- Unemployment Insurance Benefit and Employer Tax Programs

Offsets Matter – TOP News for States

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www.fiscal.treasury.gov/TOPStatePrograms
TO PARTICIPATE IN TOP UI EMPLOYER TAX OR BENEFITS IN FY 2016
CONTACT:
• Becky Park
  TOP State Programs Manager – becky.park@fiscal.treasury.gov

CONTACT TOP WITH YOUR REQUESTS AND SUGGESTIONS – WE WELCOME THESE!
Please use the emails below to contact the appropriate TOP Team.

• For State General Concerns/Requests:
  TOP State Liaisons – stateoffsets@fiscal.treasury.gov

• For TOP Production and Operational Concerns/Requests:
  TOP Operations Team – DMSE.Ops@fiscal.treasury.gov
Questions?