

Collection of Debts from Overpayments
State University Loans
1984 Legislation

Chapter 559 of the Laws of 1984, signed into law by the Governor on July 27, 1984, has amended the Tax Law to provide for the crediting of overpayments of New York State, City of New York and City of Yonkers personal income and earnings tax against defaults in repayment of state university loans.

Newly added section 171-e(1) of the Tax Law provides that the term "state university loan" refers to loans provided to students at state-operated units of the State University of New York under the national defense/national direct, health professions or nursing student loan program. The amount of the defaulted loan to be applied against an overpayment is only that amount against which New York State or the State University of New York has obtained a final judgement no longer subject to judicial review (section 171-e(3)).

From the time the Tax Department is notified of a liability for a defaulted state university loan by the State University of New York, it is relieved from all liabilities to taxpayers, successors, assigns, heirs or representatives for the amount of overpayment and interest which is certified to be credited against the defaulted state university loan.

The personal income tax overpayment and interest will be credited against the amounts owed by the taxpayer in the following manner:

- 1) a liability of the taxpayer for taxes imposed under the New York Tax Law, such as the resident and nonresident personal income tax, corporation tax, sales tax, miscellaneous tax, etc.
- 2) a liability of the taxpayer for taxes imposed by the authority of the New York Tax Law or any other law if such tax is administered by the Tax Commission, such as the New York City and City of Yonkers resident and nonresident personal income tax, etc.
- 3) the amount of overpayment claimed from the current year's return to be a credit for the succeeding year's estimated tax account (New York State, City of New York income and earnings taxes and City of Yonkers income tax surcharge and earnings tax).
- 4) the balance of overpayment and interest remaining is then applied against a) past due child support, b) defaults in repayment of a state university loan and c) defaults in repayment of a guaranteed student loan, in that order.

The Tax Commission is required by section 171-e(7) to notify the taxpayer in writing of the amount of overpayment and interest certified to be credited against the default in repayment of a state university loan.

Tax Law sections 651(b)(4)(B) and 651(b)(5)(iii) provide that if separate New York State returns are filed on one form or if a joint New York State return is filed, the total overpayment (including interest) of both spouses will be credited against the amount of defaulted state university loan owed by either spouse. The spouse not liable for the obligation may demand that his/her overpayment not be applied against the debt owed by the other spouse by attaching a statement with the original filing of the return. Where this statement is attached to the original return, the amount of the overpayment attributable to each spouse will be determined based upon section 145.10(f) of Title 20 of the New York State Code of Rules and Regulations. Tax returns may not be amended for the purpose of making this demand.

The Administrative Code of the City of New York, Title T and Title U, and the Codes of Ordinances of the City of Yonkers, Articles IX and X, have been similarly amended to reflect the above law changes.

The collection of defaults in repayment of state university loans from overpayments of taxes is effective for overpayments for taxable years beginning after December 31, 1983. Collection of past-due child support and defaults in repayment of guaranteed student loans was effective for overpayments for taxable years beginning after December 31, 1981. See TSB-M-83-(6)-I, Collection of Debts from Overpayments (past-due child support and defaulted student loans), dated March 24, 1983, for more information.