

net outflow of cash and cash equivalents should be used for the test.

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BILLING CODE 8010-01-P

## DEPARTMENT OF THE TREASURY

### Fiscal Service

#### 31 CFR Part 285

#### RIN 1510-AB22

#### Disbursing Official Offset

**AGENCY:** Financial Management Service, Fiscal Service, Treasury.

**ACTION:** Interim final rule.

**SUMMARY:** The Department of the Treasury, Financial Management Service, is amending its regulations governing the offset of Federal payments to collect nontax debts owed to the United States and States through the Treasury Offset Program. This amendment changes the priorities for collecting debt when a debtor owes more than one debt which has been referred to the Treasury Offset Program for collection by offset, consistent with a change in the statute on which the priority is based. The statutory change, enacted as part of the Deficit Reduction Act of 2005, amends the priority given to the collection of certain past-due support debts.

**DATES:** This final rule is effective June 10, 2009.

**ADDRESSES:** The Financial Management Service participates in the U.S. government's eRulemaking Initiative by publishing rulemaking information on [www.regulations.gov](http://www.regulations.gov). Regulations.gov offers the public the ability to comment on, search, and view publicly available rulemaking materials, including comments received on rules.

Comments on this rule, identified by docket FISCAL-FMS-2008-0005, should only be submitted using the following methods:

- *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the instructions on the Web site for submitting comments.
- *Mail:* Thomas Dungan, Policy Analyst, Financial Management Service, 401 14th Street, SW., Washington, DC 20227.

The fax and e-mail methods of submitting comments on rules to FMS have been retired.

**Instructions:** All submissions received must include the agency name ("Financial Management Service") and docket number FISCAL-FMS-2008-

0005 for this rulemaking. In general, comments will be published on Regulations.gov without change, including any business or personal information provided. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may also inspect and copy this rule at: Treasury Department Library, Freedom of Information Act (FOIA) Collection, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Before visiting, you must call (202) 622-0990 for an appointment.

**FOR FURTHER INFORMATION CONTACT:** Thomas Dungan, Policy Analyst, at (202) 874-6660 or Tricia Long, Senior Attorney, at (202) 874-6680.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Deficit Reduction Act of 2005 (Pub. L. 109-171) amended section 6402 of the Internal Revenue Code (26 U.S.C. 6402) by changing the order of priority for collecting debt when a debtor owes more than one debt which is subject to collection by tax refund offset. Prior to this change, the order of priority was as follows: (1) Past-due support debts which had been assigned to a State under section 402(a)(26) or 471(a)(17) of the Social Security Act; (2) nontax debt owed to Federal agencies; (3) other past-due support debts; and (4) other reductions allowed by law. Effective October 1, 2008, the order of priority is: (1) All past-due support debts; (2) nontax debt owed to Federal agencies and (3) other reductions allowed by law.

The changes to this rule conform to the statutory change by reordering the order of priority for collecting debt through the Treasury Offset Program. Although the statutory change is directed to the offset of tax refund payments, the portions of this rule that govern offset of nontax payments are also being changed to conform to the new priority order. This is necessary for operational consistency and to create uniformity in how offsets are conducted.

##### II. Procedural Analyses

###### *Administrative Procedures Act*

This rule is being issued without prior public notice and comment as to tax refund payments, because the changes to the rule are being made to conform to statutory requirements. As to other

payments, the change does not adversely affect the rights of the public. Under 5 U.S.C. 553(b) and (d)(3), good cause exists to determine that notice and comment rulemaking is unnecessary and contrary to the public interest. The amendments made by this rule regarding the offset of tax refund payments are required due to amendments enacted into law. The amendments made by this rule regarding the offset of nontax payments mirror those statutory amendments and are necessary to achieve consistency in how non-judicial offsets are conducted. These changes relate to procedures between and among agencies that are owed delinquent debt; therefore, public comment is not necessary. Further delay in making these amendments is contrary to the public interest because it would create an inconsistency both between the law and the regulations and between the regulations themselves, and would cause confusion.

###### *Request for Comment on Plain Language*

Executive Order 12866 requires each agency in the Executive branch to write regulations that are simple and easy to understand. We invite comment on how to make the proposed rule clearer. For example, you may wish to discuss: (1) Whether we have organized the material to suit your needs; (2) whether the requirements of the rules are clear; or (3) whether there is something else we could do to make these rules easier to understand.

###### *Regulatory Planning and Review*

The final rule does not meet the criteria for a "significant regulatory action" as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

###### *Regulatory Flexibility Act Analysis*

Because no notice of rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. *et seq.*) do not apply.

###### **List of Subjects in 31 CFR Part 285**

Administrative practice and procedure, Child support, Child welfare, Claims, Credits, Debts, Disability benefits, Federal employees, Garnishment of wages, Hearing and appeal procedures, Loan programs, Privacy, Railroad retirement, Railroad unemployment insurance, Salaries, Social Security benefits, Supplemental Security Income (SSI), Taxes, Veteran's benefits, Wages.

■ For the reasons set forth in the preamble, we are amending 31 CFR part 285 as follows:

**PART 285—DEBT COLLECTION  
AUTHORITIES UNDER THE DEBT  
COLLECTION IMPROVEMENT ACT OF  
1996**

■ 1. The authority citation for part 285 continues to read as follows:

**Authority:** 5 U.S.C. 5514; 26 U.S.C. 6402; 31 U.S.C. 321, 3701, 3711, 3716, 3719, 3720A, 3720B, 3720D; 42 U.S.C. 664; E.O. 13019, 61 FR 51763, 3 CFR, 1996 Comp., p. 216.

■ 2. In § 285.1, revise paragraph (n) to read as follows:

**§ 285.1 Collection of past-due support by administrative offset.**

\* \* \* \* \*

(n) *Administrative offset priorities.* (1) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over deductions under this section.

(2) Offsets will be applied first to past-due support being enforced by the State before any other offsets under this part.

\* \* \* \* \*

**§ 285.2 [Amended]**

■ 3. Amend § 285.2 as follows:

■ a. Remove paragraph (e);

■ b. Redesignate paragraphs (f) through (l) as (e) through (k).

■ c. In newly redesignated paragraph (e)(1)(ii), revise the reference to “paragraph (f)(1)(i)” to read “paragraph (e)(1)(i)” and revise the reference to “paragraph (g)” to read “paragraph (f)”; and

■ d. In newly redesignated paragraph (g), revise the reference to “paragraph (i)” to read “paragraph (h)”.

■ 4. In § 285.3, revise paragraph (d)(1) to read as follows:

**§ 285.3 Offset of tax refund payments to collect past-due support.**

\* \* \* \* \*

(d) *Priorities for offset.* (1) As provided in 26 U.S.C. 6402, a tax refund payment shall be reduced in the following order of priority:

(i) First, by the amount of any past-due support which is to be offset under 26 U.S.C. 6402(c) and 42 U.S.C. 464;

(ii) Second, by the amount of any past-due, legally enforceable debt owed to a Federal agency which is to be offset under 26 U.S.C. 6402(d), 31 U.S.C. 3720A and § 285.2 of this part; and

(iii) Third, by the amount of any past-due, legally enforceable debt owed to States (other than past-due support) which is to be offset under 26 U.S.C. 6402(e) or 26 U.S.C. 6402(f).

\* \* \* \* \*

■ 5. In § 285.5, revise paragraph (f)(3) to read as follows:

**§ 285.5 Centralized offset of Federal payments to collect nontax debts owed to the United States.**

\* \* \* \* \*

(f) \* \* \*

(3) *Priorities for collecting multiple debts owed by the payee.* (i) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over deductions under this section.

(ii) When a payment may be offset to collect more than one debt, amounts offset will be applied:

(A) First, to satisfy any past-due support that that the State is collecting under section 464 of the Social Security Act (see § 285.1 and 285.3 of this part);

(B) Second, to satisfy any debts owed to Federal agencies, as described in this § 285.5; and

(C) Third, to any debts owed to States for debts other than past-due support (see §§ 285.6 and 285.8 of this part).

\* \* \* \* \*

■ 6. In § 285.7, revise paragraph (h)(2) to read as follows:

**§ 285.7 Salary offset.**

\* \* \* \* \*

(h) \* \* \*

(2) When a salary payment may be reduced to collect more than one debt, amounts offset under this section will be applied to a debt only after amounts have been applied to satisfy past-due support debts being collected by the State pursuant to Section 464 of the Social Security Act.

\* \* \* \* \*

■ 7. In § 285.8, revise paragraph (d)(1) to read as follows:

**§ 285.8 Offset of tax refund payments to collect state income tax obligations.**

\* \* \* \* \*

(d) \* \* \*

(1) As provided in 26 U.S.C. 6402, a tax refund payment shall be reduced first by the amount of any past-due support being enforced under section 464 of the Social Security Act which is to be offset under 26 U.S.C. 6402(c); second by the amount of any past-due, legally enforceable debt owed to a Federal agency which is to be offset under 26 U.S.C. 6402(d); and third by any past-due, legally enforceable debt owed to a State (other than past-due support) which is to be offset under 26 U.S.C. 6402(e) or 26 U.S.C. 6402(f).

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Dated: May 29, 2009.

**Gary Grippo,**

*Acting Fiscal Assistant Secretary.*

[FR Doc. E9-13613 Filed 6-9-09; 8:45 am]

**BILLING CODE 4810-35-P**

**DEPARTMENT OF THE TREASURY**

**Office of Foreign Assets Control**

**31 CFR Part 538**

**Sudanese Sanctions Regulations**

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Office of Foreign Assets Control of the U.S. Department of the Treasury (“OFAC”) is amending the Sudanese Sanctions Regulations to expand the scope of an existing authorization of certain imports for diplomatic or official personnel to include the provision of goods or services in the United States to the diplomatic missions of the Government of Sudan to the United States and the United Nations, and to the employees of such missions, subject to certain conditions. The amended section also authorizes the importation of goods or services into the United States by the regional Government of Southern Sudan and its employees that involve the transit or transshipment of goods through areas of Sudan other than the Specified Areas of Sudan, subject to certain conditions.

**DATES:** *Effective Date:* June 10, 2009.

**FOR FURTHER INFORMATION CONTACT:** Assistant Director for Compliance Outreach & Implementation, tel.: 202-622-2490, Assistant Director for Licensing, tel.: 202-622-2480, Assistant Director for Policy, tel.: 202-622-4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202-622-2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

**SUPPLEMENTARY INFORMATION:**

**Electronic and Facsimile Availability**

This document and additional information concerning OFAC are available from OFAC’s Web site (<http://www.treas.gov/ofac>) or via facsimile through a 24-hour fax-on demand service, tel.: (202) 622-0077.

**Background**

The Sudanese Sanctions Regulations, 31 CFR part 538 (the “SSR”), were promulgated to implement Executive Order 13067 of November 3, 1997 (“E.O. 13067”), in which the President declared a national emergency with respect to the policies and actions of the Government of Sudan. To deal with that emergency, E.O. 13067 imposed comprehensive trade sanctions with respect to Sudan and blocked all property and interests in property of the