

## Securities and Exchange Commission

## § 204.75

### § 204.54 Commission action as a result of consideration of evidence submitted in response to the notice of intent.

(a) *Consideration of evidence.* If, as a result of the Notice of Intent, the Commission receives notice that the debtor will submit additional evidence or receives additional evidence from the debtor within the prescribed time period, any notice to the IRS will be stayed until the Commission can:

(1) Consider the evidence presented by the debtor; and

(2) Determine whether or not all or a portion of the debt is still past due and legally enforceable; and

(3) Notify the debtor of its determination.

(b) *Notification to the debtor.* Following review of the evidence, the Commission's designee will issue a written decision notifying the debtor whether the Commission has sustained, amended, or canceled its determination that the debt is past-due and legally enforceable. The notice will advise the debtor of any further action to be taken and explain the supporting rationale for the decision.

(c) *Commission action on the debt.* (1) The Commission will notify the debtor of its intent to refer the debt to the IRS for offset against the debtor's Federal income tax refund if it sustains its decision that the debt is past-due and legally enforceable. The Commission will also notify the debtor whether the amount of the debt remains the same or is modified; and

(2) The Commission will not refer the debt to the IRS for offset against the debtor's Federal income tax refund if it reverses its decision that the debt is past due and legally enforceable.

### § 204.55 Change in notification to Internal Revenue Service.

(a) Except as noted in paragraph (b) of this section, after the Commission sends the IRS notification of an individual's liability for a debt, the Commission will promptly notify the IRS of any change in the notification, if the Commission:

(1) Determines that an error has been made with respect to the information contained in the notification;

(2) Receives a payment or credits a payment to the account of the debtor named in the notification that reduces the amount of the debt referred to the IRS for offset; or

(3) Receives notification that the individual owing the debt has filed for bankruptcy under Title 11 of the United States Code or has been adjudicated bankrupt and the debt has been discharged.

(b) The Commission will not notify the IRS to increase the amount of a debt owed by a debtor named in the Commission's original notification to the IRS.

(c) If the amount of a debt is reduced after referral by the Commission and offset by the IRS, the Commission will refund to the debtor any excess amount and will promptly notify the IRS of any refund made by the Commission.

### § 204.56 Administrative charges.

All administrative charges incurred in connection with the referral of the debts to the IRS will be assessed on the debt and thus increase the amount of the offset.

### §§ 204.57—204.74 [Reserved]

## Subpart D—Miscellaneous: Credit Bureau Reporting, Collection Services

AUTHORITY: 31 U.S.C. 3701, 3711, 3718.

SOURCE: 58 FR 64373, Dec. 7, 1993, unless otherwise noted.

### § 204.75 Collection services.

Section 13 of the Debt Collection Act (31 U.S.C. 3718) authorizes agencies to enter into contracts for collection services to recover debts owed the United States. The Act requires that certain provisions be contained in such contracts, including:

(a) The agency retains the authority to resolve a dispute, including the authority to terminate a collection action or refer the matter to the Attorney General for civil remedies; and

(b) The contractor is subject to the Privacy Act of 1974, as it applies to private contractors, as well as subject to State and Federal laws governing debt collection practices.