

(d) A levy pursuant to the Internal Revenue Code takes precedence over a salary offset under this subpart, as provided in 5 U.S.C. 5514(d).

(e) This subpart does not apply to any adjustment to pay arising out of your election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four or fewer pay periods.

§ 1150.21 May I ask the Endowment to waive an overpayment that otherwise would be collected by offsetting my salary as a Federal employee?

Yes. The regulations in this subpart do not preclude you from requesting waiver of an overpayment under 5 U.S.C. 5584 or 8346(b), 10 U.S.C. 2774, 32 U.S.C. 716, or other statutory provisions pertaining to the particular debts being collected.

§ 1150.22 What are the Endowment's procedures for salary offset?

(a) The Endowment will coordinate salary deductions under this subpart as appropriate.

(b) If you are an Endowment employee, the Endowment's payroll office will determine the amount of your disposable pay and will implement the salary offset.

(c) Deductions will begin within three official pay periods following receipt by the Endowment's payroll office of certification of debt from the creditor agency.

(d) Types of collection. (1) *Lump-sum offset*. If the amount of the debt is equal to or less than 15 percent of disposable pay, the debt generally will be collected through one lump-sum offset.

(2) *Installment deductions*. Installment deductions will be made over a period not greater than the anticipated period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and your ability to pay. However, the amount deducted from any period will not exceed 15 percent of the disposable pay from which the deduction is made unless you have agreed in writing to the deduction of a greater amount. If possible, installment payments will be sufficient in size and frequency to

liquidate the debt in three years or less.

(3) *Deductions from final check*. A deduction exceeding the 15 percent of disposable pay limitation may be made from any final salary payment under 31 U.S.C. 3716 and the Federal Claims Collection Standards, in order to liquidate the debt, whether the employee is being separated voluntarily or involuntarily.

(4) *Deductions from other sources*. If an employee subject to salary offset is separated from the Endowment, and the balance of the debt cannot be liquidated by offset of the final salary check, then the Endowment may offset later payments of any kind against the balance of the debt, as allowed by 31 U.S.C. 3716 and the Federal Claims Collection Standards.

(e) Multiple debts. In instances where two or more creditor agencies are seeking salary offsets, or where two or more debts are owed to a single creditor agency, the Endowment's payroll office may, at its discretion, determine whether one or more debts should be offset simultaneously within the 15 percent limitation.

§ 1150.23 How will the Endowment coordinate salary offsets with other agencies?

(a) *Responsibilities of the Endowment as the creditor agency*. Upon completion of the procedures established in this subpart and pursuant to 5 U.S.C. 5514, the Endowment must submit a claim to a paying agency.

(1) In its claim, the Endowment must certify, in writing, the following:

- (i) That the employee owes the debt;
- (ii) The amount and basis of the debt;
- (iii) The date the Endowment's right to collect the debt first accrued; and
- (iv) That the Endowment's regulations in this subpart have been approved by OPM under 5 CFR part 550, subpart K.

(2) If the collection must be made in installments, the Endowment's claim will also advise the paying agency of the amount or percentage of disposable pay to be collected in each installment. The Endowment may also advise the paying agency of the number of installments to be collected and the date of the first installment, if that date is

other than the next officially established pay period.

(3) The Endowment shall also include in its claim:

(i) The employee's written consent to the salary offset;

(ii) The employee's signed statement acknowledging receipt of the procedures required by 5 U.S.C. 5514; or

(iii) Information regarding the completion of procedures required by 5 U.S.C. 5514, including the actions taken and the dates of those actions.

(4) If the employee is in the process of separating and has not received a final salary check or other final payment(s) from the paying agency, the Endowment must submit its claim to the paying agency for collection under 31 U.S.C. 3716. The paying agency will (under its regulations adopted under 5 U.S.C. 5514 and 5 CFR part 550, subpart K), certify the total amount of its collection on the debt and notify the employee and the Endowment. If the paying agency's collection does not fully satisfy the debt, and the paying agency is aware that the debtor is entitled to payments from the Civil Service Retirement and Disability Fund or other similar payments that may be due the debtor employee from other Federal government sources, then (under its regulations adopted under 5 U.S.C. 5514 and 5 CFR part 550, subpart K), the paying agency will provide written notice of the outstanding debt to the agency responsible for making the other payments to the debtor employee. The written notice will state that the employee owes a debt, the amount of the debt, and that the provisions of this section have been fully complied with. However, the Endowment must submit a properly certified claim under this paragraph (a)(4) to the agency responsible for making the payments before the collection can be made.

(5) Separated employee. If the employee is already separated and all payments due from his or her former paying agency have been paid, the Endowment may request, unless otherwise prohibited, that money due and payable to the employee from the Civil Service Retirement and Disability Fund or other similar funds be administratively offset to collect the debt.

(6) Employee transfer. When an employee transfers from one paying agency to another paying agency, the Endowment will not repeat the due process procedures described in 5 U.S.C. 5514 and this subpart to collection. The Endowment will submit a properly certified claim to the new paying agency and will subsequently review the debt to ensure that the collection is resumed by the new paying agency.

(b) *Responsibilities of the Endowment as the paying agency.* (1) Complete claim. When the Endowment receives a certified claim from a creditor agency (under the creditor agency's regulations adopted under 5 U.S.C. 5514 and 5 CFR part 550, subpart K), deductions should be scheduled to begin within three officially established pay intervals. Before deductions can begin, the employee will receive a written notice from the Endowment including:

(i) A statement that the Endowment has received a certified claim from the creditor agency;

(ii) The amount of the claim;

(iii) The date salary offset deductions will begin; and

(iv) The amount of such deductions.

(2) Incomplete claim. When the Endowment receives an incomplete certification of debt from a creditor agency, the Endowment will return the claim with a notice that the creditor agency must comply with the procedures required under 5 U.S.C. 5514 and 5 CFR part 550, subpart K, and must properly certify a claim to the Endowment before the Endowment will take action to collect from the employee's current pay account.

(3) The Endowment is not authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt certified by the creditor agency.

(4) Employees who transfer from the Endowment to another paying agency. If, after the creditor agency has submitted the claim to the Endowment, the employee transfers from the Endowment to a different paying agency before the debt is collected in full, the Endowment will certify the total amount collected on the debt and notify the employee and the creditor agency in writing. The notification to

the creditor agency will include information on the employee's transfer.

§ 1150.24 Under what conditions will the Endowment make a refund of amounts collected by salary offset?

(a) If the Endowment is the creditor agency, it will promptly refund any amount deducted under the authority of 5 U.S.C. 5514, when:

(1) The debt is waived or all or part of the funds deducted are otherwise found not to be owed (unless expressly prohibited by statute or regulation); or

(2) An administrative or judicial order directs the Endowment to make a refund.

(b) Unless required or permitted by law or contract, refunds under this section will not bear interest.

§ 1150.25 Will the collection of a claim by salary offset act as a waiver of my rights to dispute the claimed debt?

Your involuntary payment of all or any portion of a debt under this subpart will not be construed as a waiver of any rights that you may have under 5 U.S.C. 5514 or other provisions of a law or written contract, unless there are statutory or contractual provisions to the contrary.

Subpart C—Tax Refund Offset

§ 1150.30 Which debts can the Endowment refer to the Treasury for collection by offsetting tax refunds?

(a) The regulations in this subpart implement 31 U.S.C. 3720A, which authorizes the Treasury to reduce a tax refund by the amount of a past-due, legally enforceable debt owed to a Federal agency.

(b) For purposes of this section, a past-due, legally enforceable debt referable to the Treasury for tax refund offset is a debt that is owed to the Endowment and:

(1) Is at least \$25.00;

(2) Except in the case of a judgment debt, has been delinquent for at least three months and will not have been delinquent more than 10 years at the time the offset is made;

(3) Cannot currently be collected under the salary offset provisions of 5 U.S.C. 5514;

(4) Is ineligible for administrative offset under 31 U.S.C. 3716(a) by reason of 31 U.S.C. 3716(c)(2) or cannot be collected by administrative offset under 31 U.S.C. 3716(a) by the Endowment against amounts payable to the debtor by the Endowment;

(5) With respect to which the Endowment has

(i) given the debtor at least 60 days to present evidence that all or part of the debt is not past due or legally enforceable,

(ii) considered evidence presented by the debtor, and

(iii) determined that an amount of the debt is past due and legally enforceable;

(6) Has been disclosed by the Endowment to a credit reporting agency as authorized by 31 U.S.C. 3711(e) and § 1150.12 of this part, unless the credit reporting agency would be prohibited from reporting information concerning the debt by reason of 15 U.S.C. 1681c;

(7) With respect to which the Endowment has notified or has made a reasonable attempt to notify the debtor that:

(i) The debt is past due, and

(ii) Unless repaid within 60 days of the date of the Notice, the debt may be referred to the Treasury for offset against any refund of overpayment of tax; and

(8) All other requirements of 31 U.S.C. 3720A and the Treasury regulations relating to the eligibility of a debt for tax return offset (31 CFR 285.2) have been satisfied.

§ 1150.31 What are the Endowment's procedures for collecting debts by tax refund offset?

(a) The Chairperson will be the point of contact with the Treasury for administrative matters regarding the offset program.

(b) The Endowment will ensure that the procedures prescribed by the Treasury are followed in developing information about past-due debts and submitting the debts to the Treasury.

(c) The Endowment will submit to the Treasury a notification of a taxpayer's liability for past-due legally enforceable debt. This notification will contain the following: