

§ 512.24

§ 512.24 Non-waiver of rights by payments.

An employee's voluntary payment of all or part of a debt being collected under 5 U.S.C. 5514 shall not be construed as a waiver of any rights which the employee may have under 5 U.S.C., or any other provision of contract or law, unless statutory or contractual provisions provide to the contrary.

§ 512.25 Refunds.

(a) Refunds shall be promptly made when:

(1) A debt is waived or otherwise found not to be owed to the United States; or

(2) The employee's paying agency is directed by an administrative or judicial order to refund amounts deducted from his or her current pay.

(b) Refunds do not bear interest unless required or permitted by law or contract.

§ 512.26 Interest, penalties, and administrative costs.

The assessment of interest, penalties and administrative costs shall be in accordance with subpart D of this regulation.

§ 512.27 Recovery when paying agency is not creditor agency.

(a) *Format for request for recovery.* (1) Upon completion of the procedures prescribed under 5 CFR 550.1104 and its own regulations, the creditor agency shall certify the debt in writing to the paying agency.

(2) The creditor agency shall certify in writing that the employee owes the debt, the amount and basis of the debt; the date on which payment is due, the date the Government's right to collect first accrued, and that the creditor agency's regulations implementing section 5514 have been approved by OPM.

(3) If collection must be made in installments, the creditor agency must advise the paying agency of the number of installments to be collected, the amount of each installment, and the commencing date of the first installment.

(b) *Submitting the request for recovery.*—(1) *Current employees.* The creditor agency shall submit the debt claim, agreement, or other instruction on the

22 CFR Ch. V (4–1–04 Edition)

payment schedule to the employee's paying agency.

(2) *Separated employees.*—(i) *Employees who are in the process of separating.* If the employee is in the process of separating, the creditor agency will submit its debt claim to the employee's paying agency for collection as provided in §§ 512.22 and 512.23. The paying agency shall certify the total amount of its collection and notify the creditor agency and the employee as provided in paragraph (b)(2)(iii) of this section. Where the paying agency is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, it will send a copy of the certified debt claim to the agency responsible for making such payments as notice that a debt is outstanding. It is the responsibility of the creditor agency for pursuing the claim.

(ii) *Employees who have already separated.* If the employee is already separated and all payments due from his or her former paying agency have been paid, the creditor agency may request that monies which are due and payable to the employee from the Civil Service Retirement and Disability Fund (5 CFR 831.1801) or other similar funds be administratively offset in order to collect the debt (31 U.S.C. 3716 and the FCCS).

(iii) *Employees who transfer from one paying agency to another.* If an employee transfers to a position served by a different paying agency subsequent to the creditor agency's debt claim but before complete collection, the paying agency from which the employee separates shall certify the total of collection made on the debt. One copy of the certification will be supplied to the employee, and another to the creditor agency with notice of the employee's transfer. The original shall be inserted in the employee's official personnel folder. The creditor agency shall submit a properly certified claim to the new paying agency before collection can be resumed. The paying agency will then resume collection from the employee's current pay account, and notify the employee and the creditor agency of the resumption. The creditor agency will not need to repeat the due process procedure described by 5 U.S.C. 5514 and 5 CFR 550.1101 *et seq.* Upon settlement or repayment of the debt all

Broadcasting Board of Governors

§ 512.28

records of the debt will be removed from official personnel records.

(c) Processing the debt claim upon receipt by the paying agency:

(1) *Incomplete claims.* If the paying agency receives an improperly completed debt certification, it shall return the request with a notice that procedures under 5 CFR 550.1101 *et seq.* and the creditor agency's own regulations must be completed and a properly completed debt certification form received before action will be taken to effect collection.

(2) *Complete claim.* If the paying agency receives a properly completed debt form, deductions will begin prospectively at the next officially established pay interval. A copy of the debt form will be given to the debtor along with notice of the date deductions will commence.

(3) The paying agency is not required or authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt as stated in the debt claim.

[52 FR 43897, Nov. 17, 1987, as amended at 55 FR 3051, Jan. 30, 1990]

Subpart D—Interest, Penalties, and Administrative Costs

§ 512.28 Assessment.

(a) Except as provided in paragraph (h) of this section, or § 512.29, Broadcasting Board of Governors shall assess interest, penalties, and administrative costs on debts owed to the United States pursuant to 31 U.S.C. 3717. Before assessing these charges, Broadcasting Board of Governors will mail or hand deliver a written notice to the debtor. This notice will include a statement of the Board's requirements concerning §§ 512.9 and 512.21.

(b) Interest shall accrue from the date on which notice of the debt is first mailed or hand-delivered to the debtor, using the most current address available to the Board.

(c) The rate of interest assessed shall be the rate of the current value of funds to the United States Treasury (i.e., the Treasury Tax and Loan account rate), as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treas-

ury Fiscal Requirements Manual Bulletins annually or quarterly, in accordance with 31 U.S.C. 3717. The rate of interest as initially assessed shall remain fixed for the duration of the indebtedness. However, in cases where the debtor has defaulted on a repayment agreement and seeks a new agreement, Broadcasting Board of Governors may set a new rate which reflects the current value of funds to the Treasury at the time the agreement is executed. Interest will not be assessed on interest, penalties, or administrative costs required by this section.

(d) Broadcasting Board of Governors shall assess charges to cover administrative costs incurred as a result of a delinquent debt. Calculation of administrative costs shall be based upon actual costs incurred. Administrative costs include costs incurred to obtain credit reports in the case of employee debt or in using a private debt collector in the case of non-employee debt.

(e) Broadcasting Board of Governors shall assess a penalty charge not to exceed 6% per year on any portion of a debt that is delinquent for more than 90 days. This charge need not be calculated until the 91st day of delinquency, but shall accrue from the date that the debt became delinquent.

(f) When a debt is paid in partial or installment payments, amounts received shall be applied first to the outstanding penalty and administrative cost charges, second to accrued interest and third to outstanding principal.

(g) Broadcasting Board of Governors will waive the collection of interest on the debt or any portion of the debt that is paid within 30 days after the date on which interest began to accrue. Broadcasting Board of Governors may extend this 30-day period, on a case-by-case basis, if it reasonably determines such action is appropriate. Broadcasting Board of Governors may also waive in whole or in part the collection of interest, penalties, and administrative costs assessed under this section per the criteria specified in part 103 of the Federal Claims Collection Standards (4 CFR part 103) relating to the compromise of claims or if the Board determines that collection of these charges is not in the best interest of the United