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waiver will be deferred pending appropriate disposition of the matter. However, the existence of a prima facie case of fraud shall, nevertheless, entitle a claimant to an opportunity to make a rebuttal with countervailing evidence; similarly, the misrepresentation must be more than non-willful or mere inadvertence. The Committee may act on a request for waiver concerning such debts, after the Inspector General or the Regional Counsel has determined that prosecution is not indicated, or the Department of Justice has notified VA that the alleged fraud or misrepresentation does not warrant action by that department, or the Department of Justice or the appropriate United States Attorney, specifically authorized action on the request for waiver.

(Authority: 38 U.S.C. 501)

[39 FR 26400, July 19, 1974, as amended at 44 FR 59906, Oct. 17, 1979; 50 FR 38803, Sept. 25, 1985; 52 FR 42112, Nov. 3, 1987]

§ 1.963 Waiver; other than loan guaranty.

(a) *General.* Recovery of overpayments of any benefits made under laws administered by the VA shall be waived if there is no indication of fraud, misrepresentation, or bad faith on the part of the person or persons having an interest in obtaining the waiver and recovery of the indebtedness from the payee who received such benefits would be against equity and good conscience.

(b) *Application.* A request for waiver of an indebtedness under this section shall only be considered:

(1) If made within 2 years following the date of a notice of indebtedness issued on or before March 31, 1983, by the Department of Veterans Affairs to the debtor, or

(2) Except as otherwise provided herein, if made within 180 days following the date of a notice of indebtedness issued on or after April 1, 1983, by the Department of Veterans Affairs to the debtor. The 180 day period may be extended if the individual requesting waiver demonstrated to the Chairperson of the Committee on Waivers and Compromises that, as a result of an error by either the Department of Veterans Affairs or the postal authorities, or due to other circumstances be-

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yond the debtor's control, there was a delay in such individual's receipt of the notification of indebtedness beyond the time customarily required for mailing (including forwarding). If the requester does substantiate that there was such a delay in the receipt of the notice of indebtedness, the Chairperson shall direct that the 180 day period be computed from the date of the requester's actual receipt of the notice of indebtedness.

(Authority: 38 U.S.C. 5302 (a) & (c))

[39 FR 26400, July 19, 1974, as amended at 44 FR 59906, Oct. 17, 1979; 48 FR 27400, June 15, 1983; 50 FR 38803, Sept. 25, 1985; 58 FR 3840, Jan. 12, 1993]

§ 1.963a Waiver; erroneous payments of pay and allowances.

The provisions applicable to VA (including those for appeals and refunds) concerning waiver actions relating to erroneous payments to VA employees of pay and allowances and travel, transportation, and relocation expenses and allowances under 5 U.S.C. 5584 are set forth at 4 CFR Parts 91 and 92. The members of Committees on Waivers and Compromises assigned to waiver actions under § 1.955 of this part are hereby delegated all authority granted the Secretary under 5 U.S.C. 5584 and 4 CFR Parts 91 and 92 to grant waiver in whole or in part of a claim aggregating not more than \$1,500, to recommend approval of waiver in whole or in part of a claim aggregating more than \$1,500, and to deny waiver of a claim for any amount. The following are the only provisions of §§ 1.955 through 1.970 of this part applicable to waiver actions concerning erroneous payments of pay and allowances and travel, transportation, and relocation expenses and allowances under 5 U.S.C. 5584: §§ 1.955(a) through (e)(2), 1.956(a) (introductory text) and (a)(3), 1.959, 1.960, 1.963a, and 1.967(c).

(Authority: 5 U.S.C. 5584, 38 U.S.C. 501; 4 CFR Parts 91 and 92)

[60 FR 53276, Oct. 13, 1995]

§ 1.964 Waiver; loan guaranty.

(a) *General.* Any indebtedness of a veteran or the indebtedness of the spouse shall be waived only when the