

§ 1.992

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administrative law judge has provided the employee with a hearing, and has rendered a final written decision.

(c) If the employee failed to file a timely request for a hearing, deductions will begin on the date specified in the notice of intention to offset, unless a hearing is granted pursuant to § 1.984(b).

(d) If an employee retires or resigns or his or her employment ends before collection of the amount of the indebtedness is completed, the remaining indebtedness will be collected according to procedures for administrative offset (see 4 CFR 101.1 through 105.5 and 5 CFR 831.1801 through 831.1807).

(Authority: 5 U.S.C. 5514)

§ 1.992 Procedures for salary offset.

(a) *Types of collection.* A debt will be collected in a lump-sum or in installments. Collection will be in a lump-sum unless the employee is financially unable to pay in one lump-sum, or if the amount of the debt exceeds 15 percent of the employee's disposable pay. In these cases, deduction will be by installments.

(b) *Installment deductions.* (1) A debt to be collected in installments will be deducted at officially established pay intervals from an employee's current pay account unless the employee and the Secretary agree to alternative arrangements for repayment. The alternative arrangement must be in writing and signed by both the employee and Secretary or designee.

(2) 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 the employee's ability to pay. However, the amount deducted for any period will not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount. If possible, the installment payment will be sufficient in size and frequency to liquidate the debt in three years. Installment payments of less than \$25 per pay period or \$50 a month will be acceptable only in the most unusual circumstances.

(c) *Imposition of interests, penalties, and administrative costs.* Interest, penalties, and administrative costs will be charged in accordance with § 1.919 and 4 CFR 102.13.

(Authority: 5 U.S.C. 5514)

[52 FR 1905, Jan. 16, 1987, as amended at 54 FR 34980, Aug. 23, 1989]

§ 1.993 Non-waiver of rights.

So long as there are not statutory or contractual provisions to the contrary, an employee's involuntary payment (of all or a portion of a debt) under these regulations will not be interpreted as a waiver of any rights that the employee may have under 5 U.S.C. 5514.

(Authority: 5 U.S.C. 5514)

§ 1.994 Refunds.

VA will refund promptly to the appropriate individual amounts offset under these regulations when:

(a) A debt is waived or otherwise found not owed the United States (unless expressly prohibited by statute or regulation); or

(b) VA is directed by an administrative or judicial order to refund amounts deducted from the employee's current pay.

(Authority: 5 U.S.C. 5514)

PART 2—DELEGATIONS OF AUTHORITY

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AUTHORITY: 5 U.S.C. 302, 552a; 38 U.S.C. 501, 512, 515, 1729, 1729A, 5711; 44 U.S.C. 3702, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 2 appear at 61 FR 7216, Feb. 27, 1996.

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§ 2.3

§ 2.1 General provisions.

In addition to the delegations of authority in this part, numerous delegations of authority are set forth throughout this title.

(Authority: 38 U.S.C. 512)

[64 FR 47111, Aug. 30, 1999]

§ 2.2 Delegation of authority to employees to issue subpoenas, etc.

(a) *Authority to issue subpoenas.* Employees occupying or acting in the positions designated in paragraph (b) of this section shall have the power to issue subpoenas for (by countersigning VA Form 2-4003) and compel the attendance of witnesses within a radius of 100 miles from the place of hearing and to require the production of books, papers, documents, and other evidence. Issuing officials shall use discretion when exercising this power.

(b) *Designated positions.* The positions designated pursuant to paragraph (a) of this section are: General Counsel, Deputy General Counsel, Chairman, Board of Veterans' Appeals, Heads of Regional Offices and Centers having insurance or regional office activities, Under Secretary for Health (for income matching programs), Director, Income Verification Match Center (for income matching programs), and the Associate Director for Operations, Income Verification Match Center (for income matching programs).

(c) *Means of service.* Subpoenas issued pursuant to this section may be served by registered or certified mail, return receipt requested, addressed to the witness only. Personal service by any VA employee or other authorized person may be made where authorized in writing by the issuing official.

(d) *Fees and mileage; district courts of the United States.* Any person required by such subpoena to attend as a witness shall be allowed and paid the same fees and mileage as are paid witnesses in the district courts of the United States. In case of disobedience to any such subpoena, the aid of any district court of the United States may be invoked in requiring attendance and testimony of witnesses and the production of documentary evidence, and such court within the jurisdiction in which the inquiry is carried on may, in the

case of contumacy or refusal to obey a subpoena issued to any officer, agent, or employee of any corporation or to any other person, issue an order requiring such corporation or other person to appear or to give evidence touching the matter in question, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(Authority: 38 U.S.C.A. 501, 5711)

[60 FR 40757, Aug. 10, 1995. Redesignated at 64 FR 47111, Aug. 30, 1999]

§ 2.3 Delegation of authority to employees to take affidavits, to administer oaths, etc.

(a) An employee to whom authority is delegated by the Secretary in accordance with 38 U.S.C. 5711, or to whom authority was delegated by the Secretary in accordance with title III, Pub. L. 844, 74th Congress, section 616, Pub. L. 801, 76th Congress, and section 1211, Pub. L. 85-56, is by virtue of such delegated authority, until such authority is revoked or otherwise terminated, empowered to take affidavits, to administer oaths and affirmations, to aid claimants in the preparation and presentation of claims, and to make investigations, examine witnesses, and certify to the correctness of papers and documents upon any matter within the jurisdiction of the Department of Veterans Affairs. Such employee is not authorized to administer oaths in connection with the execution of affidavits relative to fiscal vouchers and is not authorized to take acknowledgments to policy loan agreements and applications for cash surrender value to United States Government life insurance and National Service life insurance.

(b) Any such oath, affirmation, affidavit, or examination, when certified under the hand of any such employee by whom it was administered or taken and authenticated by the seal of the Department of Veterans Affairs, may be offered or used in any court of the United States and, without further proof of the identity or authority of such employee, shall have like force and effect as if administered or taken before a clerk of such court.