

## § 11.62

the Department of the Treasury for offset against any overpayment of tax; and

(4) Is at least \$25.00; and

(5) Meets all other requirements of 31 U.S.C. 3720A and the Department of the Treasury regulations relating to the eligibility of a debt for tax refund offset have been satisfied.

[63 FR 1068, Jan. 8, 1998]

### **§ 11.62 Administrative charges incurred in referrals for tax refund offset.**

In accordance with § 11.48(e), all administrative costs incurred in connection with the referral of the debts to the Department of the Treasury for collection by tax refund offset shall be added to the amount owed by the debtor. Such costs will include, but not be limited to, a pro-rata share of total costs of taking offsets incurred by the Department of the Treasury in accordance with agreements executed by FEMA, the Department of the Treasury and the Department's constituent agencies.

[63 FR 1069, Jan. 8, 1998]

### **§ 11.63 Notice to debtor before tax refund offset.**

(a) FEMA will refer a debt to the Department of the Treasury for tax refund offset only after FEMA:

(1) Makes a determination that the debt is owed to the United States;

(2) Sends the debtor a notice of FEMA's intent to use Department of the Treasury tax refund offset that provides the debtor with items of information described in paragraphs (a)(2)(i) through (vii) as follows:

(i) Debtor owes FEMA an amount due; and

(ii) The debt is past due; and

(iii) Unless the debt is repaid within 60 days of the date of FEMA's mailing the notice of intent described above, FEMA intends to collect the debt by requesting the Department of the Treasury to take offset to reduce the debtor's federal tax refund by the amount of the principal amount of the debt and all accumulated interest, penalty, and other charges; and

(iv) Debtor has an opportunity to present arguments and evidence within 60 days of mailing of the notice of in-

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tent that all or a part of the debt is not due. A debtor requesting a review within the Agency shall send these arguments to the FEMA office that sent the notice of intent under § 11.63(a)(2); and

(v) Debtor has had an opportunity to arrange to inspect and copy records relating to the debt by mailing a request to the FEMA office sending the notice of intent under § 11.63(a)(2); and

(vi) If no reply is received from the debtor within 60 days of mailing of the notice, FEMA may refer the debt to the U.S. Department of the Treasury after reviewing the file and determining that the debt is due; and

(vii) Debtor may negotiate a repayment agreement, satisfactory to FEMA, for the repayment of the debt.

(b) If the debtor has presented evidence and arguments as described in subsection (a)(2)(iv) FEMA will refer the debt to the Department of the Treasury only after the FEMA Office of General Counsel has rendered a decision under provisions of §§ 11.64 and 11.65 of this subpart concerning the debtor's arguments and evidence, if any, and has determined that the debt is due either in whole or in part. If the debtor has submitted evidence in accordance with paragraph (a)(2)(iv)(g) of this section, the FEMA Office of General Counsel shall notify the debtor of the Agency's final determination.

(c) If the debtor has questions concerning the debt or procedures being used, the debtor may contact FEMA at an address and telephone number provided in the notice of intent under § 11.63(a)(2).

[63 FR 1069, Jan. 8, 1998]

### **§ 11.64 Review within Federal Emergency Management Agency.**

(a) *Notification by debtor.* A debtor receiving notice of intent under § 11.63(a)(2) has the right to present evidence and arguments within 60 days of mailing of the notice of intent that all of the debt is not past-due or not legally enforceable. To exercise this right, the debtor must:

(1) Send a written request for review of evidence to the FEMA office sending the notice of intent; and

(2) State in the request the amount disputed and the reasons why the debtor believes that the debt is not past-due or is not legally enforceable; and

(3) Include in the request any documents that the debtor wishes to be considered, or state that additional information will be submitted within the remainder of the 60-day period. FEMA is not obligated to consider any of debtor's evidence received after the 60-day period, except as specified in paragraph (c) of this section.

(b) *Submission of evidence.* The debtor may submit evidence that all or part of the debt is not past due or legally enforceable along with the notification required by paragraph (a) of this section. Debtor's failure to submit the notification and evidence within the 60-day period may result in FEMA's referral of the debt to the Department of the Treasury with only a review by the ACO or the ACO's designee that FEMA's records show that the debt is actually due FEMA.

(c) *Late filed requests for review within FEMA.* If the debtor submits a request for review after the 60-day time limit in paragraph (a) of this section, FEMA shall render a decision as described in paragraph (d) of this section, but FEMA shall not stay offset action as described in § 11.65. However, if FEMA, after the review of the debtor's evidence and arguments, determines that the debtor owes less than the amounts that FEMA has taken through offset, then FEMA shall refund any difference between any amounts offset and amounts that the review within the Agency determines is actually owed.

(d) *Review of the evidence.* FEMA will review the debtor's arguments and evidence in accordance with procedures set forth in § 11.43(c).

[63 FR 1069, Jan. 8, 1998]

#### § 11.65 Stay of tax refund offset action.

If the debtor notifies FEMA that the debtor is exercising rights described in § 11.64 and submits evidence within time limits specified in § 11.64, any notice to the Department of the Treasury concerning tax refund offset will be stayed until the issuance of a written decision that sustains, amends, or ends collection action resulting from

FEMA's original debt collection decision.

[63 FR 1069, Jan. 8, 1998]

### Subpart D—Personnel Claims Regulations

AUTHORITY: 31 U.S.C. 3721.

SOURCE: 50 FR 8112, Feb. 28, 1985.

#### § 11.70 Scope and purpose.

(a) The Director, Federal Emergency Management Agency (FEMA), is authorized by 31 U.S.C. 3721 to settle and pay (including replacement in kind) claims of officers and employees of FEMA, amounting to not more than \$25,000 for damage to or loss of personal property incident to their service. Property may be replaced in-kind at the option of the Government. Claims are payable only for such types, quantities, or amounts of tangible personal property (including money) as the approving authority shall determine to be reasonable, useful, or proper under the circumstances existing at the time and place of the loss. In determining what is reasonable, useful, or proper, the approving authority will consider the type and quantity of property involved, circumstances attending acquisition and use of the property, and whether possession or use by the claimant at the time of damage or loss was incident to service.

(b) The Government does not underwrite all personal property losses that a claimant may sustain and it does not underwrite individual tastes. While the Government does not attempt to limit possession of property by an individual, payment for damage or loss is made only to the extent that the possession of the property is determined to be reasonable, useful, or proper. If individuals possess excessive quantities of items, or expensive items, they should have such property privately insured. Failure of the claimant to comply with these procedures may reduce or preclude payment of the claim under this subpart.

#### § 11.71 Claimants.

(a) A claim pursuant to this subpart may only be made by: (1) An employee of FEMA; (2) a former employee of