

§ 309.17

22 CFR Ch. III (4-1-05 Edition)

the determination by the payroll office of the order of the debt collection.

§ 309.17 Coordinating salary offset with other agencies.

(a) *Responsibility of the Peace Corps as the creditor agency.*

(1) The Director or Director's designee shall coordinate debt collections and shall, as appropriate:

(i) Arrange for a hearing upon proper petition by a federal employee; and

(ii) Prescribe such practices and procedures as may be necessary to carry out the intent of this subpart.

(2) Designate a salary offset coordination officer who will be responsible for:

(i) Ensuring that each notice of intent to offset is consistent with the requirements of § 309.10;

(ii) Ensuring that each certification of debt sent to a paying agency is consistent with the requirements of § 309.12;

(iii) Obtaining hearing officials from other agencies pursuant to § 309.11(f); and

(iv) Ensuring that hearings are properly scheduled.

(3) Request recovery from current paying agency. Upon completion of the procedures established in these regulations and pursuant to 5 U.S.C. 5514, the Peace Corps must:

(i) Certify, in writing, that the employee owes the debt, the amount and basis of the debt, the date on which payments are due, the date the Government's right to collect the debt first accrued, and that the Peace Corps' regulations implementing 5 U.S.C. 5514 have been approved by the Office of Personnel Management;

(ii) Advise the paying agency of the actions taken under 5 U.S.C. 5514(a) and give the dates the actions were taken (unless the employee has consented to the salary offset in writing or signed a statement acknowledging receipt of the required procedures and the written consent or statement is forwarded to the paying agency);

(iii) Except as otherwise provided in paragraph (a)(3) of this section, submit a debt claim containing the information specified in paragraphs (a)(3) (i) and (ii) of this section and an installment agreement (or other instruction

on the payment schedule), if applicable, to the employee's paying agency;

(iv) If the employee is in the process of separating, the Peace Corps must submit its debt claim to the employee's paying agency for collection as provided in § 309.16. The paying agency must certify the total amount of its collection and notify the creditor agency and the employee as provided in paragraph (b)(4) of this section. If the paying agency is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, or other similar payments, it must provide written notification to the agency responsible for making such payments that the debtor owes a debt (including the amount) and that the provisions of this section have been fully complied with. However, the Peace Corps must submit a properly certified claim to the agency responsible for making such payments before the collection can be made.

(v) If the employee is already separated and all payments due from his or her former paying agency have been paid, the Peace Corps may request, unless otherwise prohibited, that money due and payable to the employee from the Civil Service Retirement and Disability Fund (5 CFR 831.1801 *et seq.*) or other similar funds, be administratively offset to collect the debt (See 31 U.S.C. 3716 and 41 CFR 102.4).

(4) When an employee transfers to another paying agency, the Peace Corps need not repeat the due process procedures described in 5 U.S.C. 5514 and this subpart to continue the collection. The Peace Corps must review the debt upon receiving the former paying agency's notice of the employee's transfer to make sure the collection is continued by the new paying agency.

(b) *Responsibility of the Peace Corps as the paying agency.*

(1) *Complete claim.* When the Peace Corps receives a certified claim from a creditor agency, deductions should be scheduled to begin at the next officially established pay interval. The employee must receive written notice that the Peace Corps has received a certified debt claim from the creditor agency (including the amount) and written notice of the date salary offset

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will begin and the amount of such deductions.

(2) *Incomplete claim.* When the Peace Corps receives an incomplete certification of debt from a creditor agency, the Peace Corps must return the debt claim with notice that procedures under 5 U.S.C. 5514 and this subpart must be followed and a properly certified debt claim received before action will be taken to collect from the employee's current pay account.

(3) *Review.* The Peace Corps 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 one paying agency to another.* If, after the creditor agency has submitted the debt claim to the Peace Corps, the employee transfers to another agency before the debt is collected in full, the Peace Corps must certify the total amount collected on the debt. One copy of the certification must be furnished to the employee and one copy to the creditor agency along with notice of the employee's transfer.

§ 309.18 Interest, penalties and administrative costs.

The Peace Corps shall assess interest, penalties and administrative costs on debts owed pursuant to 31 U.S.C. 3717 and 4 CFR 102.13.

§ 309.19 Refunds.

(a) In instances where the Peace Corps is the creditor agency, it shall promptly refund any amounts deducted under the authority of 5 U.S.C. 5514 when:

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

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

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

§ 309.20 Request for the services of a hearing official from the creditor agency.

(a) The Peace Corps will provide a hearing official upon request of the

creditor agency when the debtor is employed by the Peace Corps and the creditor agency cannot provide a prompt and appropriate hearing before an administrative law judge or before a hearing official furnished pursuant to another lawful arrangement.

(b) The Peace Corps will provide a hearing official upon request of a creditor agency when the debtor works for the creditor agency and that agency cannot arrange for a hearing official.

(c) The salary offset coordination officer will appoint qualified personnel to serve as hearing officials.

(d) Services rendered under this section will be provided on a fully reimbursable basis pursuant to the Economy Act of 1932, as amended, 31 U.S.C. 1535.

§ 309.21 Non-waiver of rights by payments.

An employee's involuntary payment of all or any portion of a debt being collected under this subpart shall not be construed as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provision of a written contract or law unless there are statutory or contractual provisions to the contrary.

Subpart C—Tax Refund Offset

§ 309.22 Applicability and scope.

This subpart implements 31 U.S.C. 3720A which authorizes the Internal Revenue Service (IRS) to reduce a tax refund by the amount of a past-due legally enforceable debt owed to the United States.

§ 309.23 Past-due legally enforceable debt.

For purposes of this subpart, a past-due legally enforceable debt referable to the IRS is a debt which is owed to the United States and:

(a) Except in the case of a judgment debt, has been delinquent for at least 3 months and will not have been delinquent more than 10 years at the time offset is made;

(b) Cannot be currently collected pursuant to the salary offset provisions of 5 U.S.C. 5514;

(c) Is ineligible for administrative offset under 31 U.S.C. 3716(a) by reason