

§ 179.209

5 CFR Ch. I (1-1-05 Edition)

(3) The date the Government's right to collect the debt first accrued;

(4) That the Office's regulations have been approved by OPM pursuant to 5 CFR part 550, subpart K;

(5) The date on which payment(s) is due;

(6) If the collection is to be made in installments, the number of installments to be collected, the amount of each installment or percentage of disposable pay, and the commencement date of the first installment, if a date other than the next officially established pay period is required; and

(7) The date(s) of any action(s) taken under 5 U.S.C. 5514(b).

§ 179.209 Voluntary repayment agreement as alternative to salary offset.

(a)(1) In response to a notice of intent, an employee may propose to repay the debt by making voluntary installment payments as an alternative to salary offset. An employee who wishes to repay a debt without salary offset shall submit in writing a proposed agreement to repay the debt. The proposal shall admit the existence of the debt, and the agreement must be in such form that it is legally enforceable. The agreement must:

(i) Be in writing;

(ii) Be signed by both the employee and the creditor agency;

(iii) Specify all the terms of the arrangement for payment; and

(iv) Contain a provision accelerating the debt in the event of default by the debtor, but such an increase may not result in a deduction that exceeds 15 percent of the employee's disposable pay unless the employee has agreed in writing to deduction of a greater amount (5 CFR 550.1104(i)).

(2) Any proposal under paragraph (a) of this section must be received by the official designated in the notice of intent within 30 calendar days after receipt of the notice.

(b) The creditor agency will review a timely and properly submitted repayment proposal by the employee debtor and notify the employee whether the proposed written agreement for repayment is acceptable. It is within the creditor agency's discretion to accept a repayment agreement instead of proceeding by offset.

(c) If the creditor agency decides that the proposed repayment agreement is unacceptable, the employee will have 15 days from the date he or she received notice of that decision to file a petition for a hearing or a special review as provided by § 179.210.

(d) If the creditor agency decides that the proposed repayment agreement is acceptable, the alternative arrangement must be in writing, signed by both the employee and the creditor agency designee and meet the other requirements of this section for a voluntary repayment agreement.

§ 179.210 Special review.

(a) An OPM employee subject to salary offset or a voluntary repayment agreement, may, at any time, request a special review by the Office of the amount of the salary offset or voluntary payment, based on materially changed circumstances such as, but not limited to, catastrophic illness, divorce, death, or disability.

(b) In determining whether an offset would prevent the employee from meeting essential subsistence expenses (food, housing, clothing, transportation and medical care), the employee shall submit a detailed statement and supporting documents for the employee, his or her spouse, and dependents indicating:

(1) Income from all sources;

(2) Assets;

(3) Liabilities;

(4) Number of dependents;

(5) Expenses for food, housing, clothing and transportation;

(6) Medical expenses; and

(7) Exceptional expenses, if any.

If an OPM employee requests a special review under this section, the employee shall file an alternative proposed offset or payment schedule and a statement, with supporting documents (§ 179.210(b)), stating why the current salary offset or payments result in an extreme financial hardship to the employee.

(c) The Director shall evaluate the statement and supporting documents, and determine whether the original offset or repayment schedule imposes an extreme financial hardship on the employee. The Director shall notify the

employee in writing of such determination, including, if appropriate, a revised offset or repayment schedule.

(d) If the special review results in a revised offset or repayment schedule, the OPM salary offset coordinator shall provide a new certification to the payroll office.

§ 179.211 Notice of salary offset.

(a) Upon receipt of proper certification from a creditor agency, the OPM payroll office will send the OPM employee, identified in the certification as the debtor, a written notice of salary offset. Such notice shall, at a minimum:

(1) State that OPM has received a properly certified debt claim from a creditor agency;

(2) Contain a copy of the certification received from the creditor agency;

(3) Advise the employee that salary offset will be initiated at the next officially established pay interval; and

(4) State the amount of the claim and amount of deductions.

(b) The payroll office shall provide a copy of the notice to the creditor agency and advise such agency of the dollar amount to be offset and the pay period when the offset will begin.

§ 179.212 Procedures for salary offset.

(a) The Director or his or her designee shall coordinate salary deductions under this subpart.

(b) OPM payroll office shall determine the amount of an employee's disposable pay and implement the salary offset.

(c) Deductions shall begin effective the pay period following receipt by OPM's payroll office of proper certification of the debt (§ 179.208).

(d) *Types of collection—(1) Lump-sum payment.* A debt will be collected in a lump sum if possible. If an employee is financially unable to pay in one lump sum or the amount of the debt exceeds 15 percent of disposable pay for an officially established pay interval, collection must be made in installments.

(2) *Installment deductions.* Installment deductions will be made over a period not greater than the anticipated period of employment and, except in rare circumstances, not to exceed 3 years. The size and frequency of installment de-

ductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. 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.

(3) *Lump-sum deductions from final check.* A lump-sum deduction exceeding the 15 percent disposable pay limitation may be made from any final salary payment pursuant to 31 U.S.C. 3716 in order to liquidate the debt, whether the employee is being separated voluntarily or involuntarily.

(4) *Lump-sum deductions from other sources.* When an employee subject to salary offset is separated from OPM and the balance of the debt cannot be liquidated by offset of the final salary check, the Office, pursuant to 31 U.S.C. 3716, the FCCS and OPM's implementing regulations, may offset the balance of the debt against any financial payment due the employee from the U.S. Government.

(e) *Multiple debts.* In instances where two or more creditor agencies are seeking salary offset, or where two or more debts are owed to a single creditor agency, OPM payroll office may, at its discretion, determine whether one or more debts should be offset simultaneously within the 15 percent limitation.

(f) *Precedence of debts owed to OPM.* For OPM employees, debts owed to the Office generally take precedence over debts owed to other agencies. In the event that a debt to the Office is certified while an employee is subject to a salary offset to repay another agency, the OPM payroll office may decide whether to have that debt repaid in full before collecting its claim or whether changes should be made in the salary deduction being sent to the other agency. If debts owed the Office can be collected in one pay period, the payroll office may suspend the salary offset to the other agency for that pay period in order to liquidate the office debt.

(g) When an employee owes two or more debts, the best interests of the Government shall be the primary consideration in determining the order of debt collection. The OPM payroll office, in making this determination,