

Office of the Secretary of Labor

§ 20.104

(b) Refunds do not bear interest unless required or permitted by law or contract.

§ 20.88 Additional administrative collection action.

Nothing contained in this subpart is intended to preclude the utilization of any other administrative remedy which may be available.

§ 20.89 Prior provision of rights with respect to debt.

To the extent that the rights of the debtor in relation to the same debt have been previously provided by the creditor agency under some other statutory or regulatory authority, the creditor agency is not required to duplicate those efforts before taking salary offset.

§ 20.90 Responsibilities of the Chief Financial Officer.

The Chief Financial Officer, or his or her designee, shall provide appropriate and binding written or other guidance to Department of Labor agencies and officials in carrying out this subpart, including the issuance of guidelines and instructions, which he or she may deem appropriate. The Chief Financial Officer shall also take such administrative steps as may be appropriate to carry out the purposes and ensure the effective implementation of this subpart.

Subpart E—Federal Income Tax Refund Offset

SOURCE: 59 FR 47250, Sept. 15, 1994, unless otherwise noted.

§ 20.101 Purpose and scope.

The regulations in this subpart establish procedures to implement 31 U.S.C. 3720A. This statute together with implementing regulations of the Internal Revenue Service (IRS) at 26 CFR 301.6402-6, authorizes the IRS to reduce a tax refund by the amount of a past-due legally enforceable debt owed to the United States. The regulations apply to past-due legally enforceable debts owed to the Department by individuals and business entities. The regulations are not intended to limit or restrict debtor access to any judicial

remedies to which he/she may otherwise be entitled.

§ 20.102 Redelegation of authority.

Authority delegated by statute or IRS regulation to the Secretary or Department is redelegated to the heads of the Department's constituent agencies. This authority may be further redelegated as necessary to ensure the efficient implementation of these regulations.

§ 20.103 Definitions.

For purposes of this subpart:

(a) *Tax refund offset* refers to the IRS income tax refund offset program operated under authority of 31 U.S.C. 3720A.

(b) *Past-due legally enforceable debt* is a delinquent debt administratively determined to be valid, whereon no more than 10 years have lapsed since the date of delinquency, and which is not discharged under a bankruptcy proceeding or subject to an automatic stay under 11 U.S.C. 362.

(c) *Agency* refers to the constituent offices, administrations and bureaus of the Department of Labor.

(d) *Individual* refers to a taxpayer identified by a social security number (SSN).

(e) *Business entity* refers to an entity identified by an employer identification number (EIN).

(f) *Taxpayer mailing address* refers to the debtor's current mailing address as obtained from IRS.

(g) *Memorandum of understanding* refers to the agreement between the Department and IRS outlining the duties and responsibilities of the respective parties for participation in the tax refund offset program.

§ 20.104 Agency responsibilities.

(a) As authorized and required by law, each Department of Labor agency may refer past-due legally enforceable debts to IRS for collection by offset from any overpayment of income tax that may otherwise be due to be refunded to the taxpayer.

(b) Prior to actual referral of a past-due legally enforceable debt for tax refund offset, the DOL agency heads (or their designees) must take the actions specified in § 20.107 and, as appropriate, § 20.106 and § 20.108.

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(c) DOL agency heads must ensure the confidentiality of taxpayer information as required by IRS in its *Tax Information Security Guidelines*.

§ 20.105 Minimum referral amount.

The IRS annually establishes the minimum amount for debts otherwise eligible for referral. Minimum referral amounts are established separately for individual debts and business debts, as set forth in the memorandum of understanding. The amount referred may include the principal portion of the debt, as well as any accrued interest, penalties and/or administrative cost charges.

[60 FR 41017, Aug. 11, 1995]

§ 20.106 Relation to other collection efforts.

(a) Tax refund offset is intended to be an administrative collection remedy of last resort, consistent with IRS requirements for participation in the program, and the costs and benefits of pursuing alternative remedies when the tax refund offset program is readily available. To the extent practical, the requirements of the program will be met by merging IRS requirements into the Department's overall requirements for delinquent debt collection.

(b) The debts of individuals of \$100 or more will be reported to a consumer credit reporting agency before referral for tax refund offset.

(c) Debts owed by individuals will be screened for salary and administrative offset potential using the most current information reasonably available to the Department, and will not be referred for tax refund offset where such other offset potential is found to exist.

[59 FR 47250, Sept. 15, 1994, as amended at 60 FR 41017, Aug. 11, 1995]

§ 20.107 Debtor notification.

(a) The agency head (or designee) of the creditor Labor Department agency shall send appropriate written demands to the debtor in terms which inform the debtor of the consequences of failure to repay claims. In accordance with guidelines as may be established by the Department's Chief Financial Officer, a total of three progressively stronger written demands at not more than 30-

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day intervals will normally be made unless a response to the first or second demand indicates that a further demand would be futile and the debtor's response does not require rebuttal. In determining the timing of demand letters, agencies should give due regard to the need to act promptly so the ability to refer a debt for tax refund offset will not be unduly delayed.

(b) Before the Department refers a debt to IRS for tax refund offset, it will make a reasonable attempt to notify the debtor that:

(1) The debt is past-due;

(2) Unless the debt is repaid or a satisfactory repayment agreement established within 60 days thereafter, it will be referred to IRS for offset from any overpayment of tax remaining after taxpayer liabilities of greater priority have been satisfied; and

(3) The debtor will have a minimum of 60 days from the date of notification to present evidence that all or part of the debt is not past-due or legally enforceable, and the Department will consider this evidence in a review of its determination that the debt is past-due and legally enforceable. The debtor will be advised where and to whom evidence is to be submitted.

(c) The Department will make a reasonable attempt to notify the debtor by using the most recent address information obtained from the IRS, unless written notification is received from the debtor that notices from the Department are to be sent to a different address.

(d) The notification required by paragraph (b) of this section and sent to the address specified in paragraph (c) of this section may, at the option of the Department, be incorporated into demand letters required by paragraph (a) of this section.

§ 20.108 Agency review of the obligation.

(a) The individual responsible for collection of the debt will consider any evidence submitted by the debtor as a result of the notification required by § 20.107(b) and notify the debtor of the result. If appropriate, the debtor will also be advised where and to whom to request a review of any unresolved dispute.