

§ 20.84

29 CFR Subtitle A (7-1-06 Edition)

§ 20.84 Collections.

(a) Whenever feasible, and except as otherwise provided by law, debts owed to the United States, together with interest, penalties, and administrative costs should be collected in full in one lump sum. This is true whether the debt is being collected by salary offset or by another method, including voluntary payment. However, if the debtor is financially unable to pay the indebtedness 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. Ordinarily, the size of installment deductions must bear a reasonable relationship to the size of the debt and the employee's ability to pay. However, the amount deducted for any period must 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. Installment deductions must be made over a period not greater than the anticipated period of active duty or employment, as the case may be except as provided in § 20.84 paragraphs (c) and (d). Where a DOL agency is the paying agency, salary offset will ordinarily begin with the salary payment made to the employee for the first full pay period following expiration of the 30 day notice period described in § 20.78(b), or if a hearing is pending under § 20.81, the first full pay period following the date of the administrative law judge's written decision.

(b) If the debtor owes more than one debt and designates how a voluntary installment payment is to be applied as among those debts, that designation must be followed. If the debtor does not designate the application of the payment, agencies should apply payments to the various debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

(c) If the employee retires or resigns or if his or her employment or period of active duty ends before collection of the debt is completed, under 5 U.S.C. 5514, salary offset shall be from subsequent payments of any nature (e.g.,

final salary payment, lump-sum leave, etc.) due the employee from the paying agency as of the date of separation to the extent necessary to liquidate the debt.

(d) If the debt cannot be liquidated by salary offset from any final payment due the former employee as of the date of separation, under 5 U.S.C. 5514, administrative offset shall be from later payments of any kind due the former employee from the United States.

§ 20.85 Notice of offset.

Prior to effecting a salary offset, the paying DOL agency should advise the debtor of the impending offset. This notice should state that the debtor has been provided his/her rights under 5 U.S.C. 5514, that a determination has been made that collection by salary offset would be in the best interests of the United States, the amount of the offset, the date the salary offset will begin, and that the source of funds shall be from current disposable pay, except as provided by (c) and (d) of § 20.84. If evidence suggests that the debtor is no longer located at the address of record, reasonable action shall be taken to obtain a current address.

§ 20.86 Non-waiver of rights by payments.

An employee's involuntary payment, of all or any portion of a debt being collected under 5 U.S.C. 5514, 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 contract or law, unless there are statutory or contractual provisions to the contrary.

§ 20.87 Refunds.

(a) Agencies shall promptly refund to the appropriate party amounts paid or deducted under this subpart when—

(1) A debt is waived or is otherwise not owing to the United States (unless refund is expressly prohibited by statute or regulation); or

(2) The employee's paying agency is directed by an administrative or judicial order to refund amounts deducted from his or her current pay.

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(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.