

**§ 30.30 What procedures apply when the Secretary requests another agency to offset a debt owed under a program or activity of the Department?**

(a) The Secretary may request another Federal agency to offset a debt owed under a program or activity of the Department if the Secretary certifies in writing to the other Federal agency:

- (1) That the debtor owes a debt to the United States;
- (2) The amount of the debt; and
- (3) That the Secretary has complied with 4 CFR 102.3.

(b) Before providing the certification required under paragraph (a) of this section, the Secretary complies with the procedures in §§ 30.20–30.27.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3716(b))

**§ 30.31 How does the Secretary apply funds recovered by offset if multiple debts are involved?**

If the Secretary collects more than one debt of a debtor by administrative offset, the Secretary applies the recovered funds to satisfy those debts based on the Secretary's determination of the best interests of the United States, determined by the facts and circumstances of the particular case.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3716(b))

IRS TAX REFUND OFFSET PROCEDURES

**§ 30.33 What procedures does the Secretary follow for IRS tax refund offsets?**

(a) If a named person owes a debt under a program or activity of the Department, the Secretary may refer the debt for offset to the Secretary of the Treasury after complying with the procedures in §§ 30.20–30.28, as modified by this section.

(b) Notwithstanding § 30.22(b), the notice sent to a debtor under § 30.22 informs the debtor that:

- (1) The debt is past due;
- (2) The Secretary intends to refer the debt for offset to the Secretary of Treasury;
- (3) The debtor has an opportunity to:
  - (i) Inspect and copy Department records regarding the existence,

amount, enforceability, or past-due status of the debt;

(ii) Obtain a review within the Department of the existence, amount, enforceability, or past-due status of the debt;

(iii) Enter into a written agreement with the Secretary to repay the debt; and

(4) The debtor must take an action set forth under paragraph (b)(3) by a date specified in the notice.

(c) Notwithstanding § 30.23(a), if a debtor wants to inspect and copy Department records regarding the existence, amount, enforceability, or past-due status of the debt, the debtor must:

- (1) File a written request to inspect and copy the records within 20 days after the date of the notice provided under § 30.22; and
- (2) File the request at the address specified in that notice.

(d) Notwithstanding the time frame under § 30.24(a), if a debtor wants a review under that paragraph, the debtor must file a request for review at the address specified in the notice by the later of:

- (1) Sixty-five days after the date of the notice provided under § 30.22;
- (2) If the debtor has requested an opportunity to inspect and copy records within the time period specified in paragraph (c) of this section, 15 days after the date on which the Secretary makes available to the debtor the relevant, requested records; or
- (3) If the debtor has requested a review within the appropriate time frame under paragraph (d) (1) or (2) of this section and the Secretary has provided an initial review by a guarantee agency, seven days after the date of the initial determination by the guarantee agency.

(e) Notwithstanding the time frames under § 30.24(d), a debtor shall file the documents specified under that paragraph with the request for review.

(f) Notwithstanding the time frame under § 30.27(a), a debtor must agree to repay the debt under terms acceptable to the Secretary and make the first payment due under the agreement by the latest of:

- (1) The seventh day after the date of decision of the Secretary if the debtor requested a review under § 30.24;

### § 30.35

(2) The sixty-fifth day after the date of the notice under §30.22(b), if the debtor did not request a review under §30.24, or an opportunity to inspect and copy records of the Department under §30.23; or

(3) The fifteenth day after the date on which the Secretary made available relevant records regarding the debt, if the debtor filed a timely request under §30.23(a).

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3720A)

#### PROCEDURES FOR REPORTING DEBTS TO CONSUMER REPORTING AGENCIES

### § 30.35 What procedures does the Secretary follow to report debts to consumer reporting agencies?

(a)(1) The Secretary reports information regarding debts arising under a program or activity of the Department and held by the Department to consumer reporting agencies, in accordance with the procedures described in this section.

(2) The term *consumer reporting agency*, as used in this section, has the same meaning as provided in 31 U.S.C. 3701(a)(3).

(b) Before reporting information on a debt to a consumer reporting agency, the Secretary follows the procedures set forth in §30.33.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3711, §16023, 16029, Pub. L. 99-272)

#### Subpart D [Reserved]

### Subpart E—What Costs and Penalties Does the Secretary Impose on Delinquent Debtors?

SOURCE: 53 FR 33425, Aug. 30, 1988, unless otherwise noted.

### § 30.60 What costs does the Secretary impose on delinquent debtors?

(a) The Secretary may charge a debtor for the costs associated with the collection of a particular debt. These costs include, but are not limited to—

(1) Salaries of employees performing Federal loan servicing and debt collection activities;

(2) Telephone and mailing costs;

### 34 CFR Subtitle A (7-1-06 Edition)

(3) Costs for reporting debts to credit bureaus;

(4) Costs for purchase of credit bureau reports;

(5) Costs associated with computer operations and other costs associated with the maintenance of records;

(6) Bank charges;

(7) Collection agency costs;

(8) Court costs and attorney fees; and

(9) Costs charged by other Governmental agencies.

(b) Notwithstanding any provision of State law, if the Secretary uses a collection agency to collect a debt on a contingent fee basis, the Secretary charges the debtor, and collects through the agency, an amount sufficient to recover—

(1) The entire amount of the debt; and

(2) The amount that the Secretary is required to pay the agency for its collection services.

(c)(1) The amount recovered under paragraph (b) of this section is the entire amount of the debt, multiplied by the following fraction:

$$\frac{1}{1 - cr.}$$

(2) In paragraph (c)(1) of this section, *cr* equals the commission rate the Department pays to the collection agency.

(d) If the Secretary uses more than one collection agency to collect similar debts, the commission rate (*cr*) described in paragraph (c)(2) of this section is calculated as a weighted average of the commission rates charged by all collection agencies collecting similar debts, computed for each fiscal year based on the formula

$$\sum_{i=1}^N \left( \frac{X_i \cdot Y_i}{Z} \right)$$

where—

(1) *X<sub>i</sub>* equals the dollar amount of similar debts placed by the Department with an individual collection agency as of the end of the preceding fiscal year;

(2) *Y<sub>i</sub>* equals the commission rate the Department pays to that collection agency for the collection of the similar debts;