

§ 1650.114

liquidate the debt. If the employee's final pay is not sufficient to permit all deductions to be made, the order of precedence for the deductions will be: retirement and FICA; Medicare; Federal income taxes; health benefits; group life insurance; indebtedness due to the United States; State income taxes; and voluntary deductions and allotments.

§ 1650.114 Recovery from other payments due a separated employee.

When the debt cannot be liquidated by offset from any final payment due to the employee on the date of separation, the Director of FRMS will attempt to liquidate the debt by administrative offset as authorized under 31 U.S.C. 3716 from later payments of any kind due the former employee from the United States. (See 4 CFR 102.3)

§ 1650.115 Interest, penalties, and administrative costs.

When a delinquent debt is collected by salary offset, interest, penalties, and administrative costs on the debt will be assessed, unless waived by the Management Director, or his or her designee, in accordance with 4 CFR 102.13.

§ 1650.116 Non-waiver of rights by payments.

An employee's payment of all or any portion of a debt collected by salary offset will not be construed as a waiver of any right 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.

§ 1650.117 Refunds.

Amounts paid, or deducted by salary offset, by an employee for a debt that is waived or otherwise not found owing to the United States will be promptly refunded to the employee. Refunds do not bear interest unless required or permitted by law or contract.

§ 1650.118 Salary offset requests by other agencies.

(a) *Statutory limitation.* Salary offset requests against Commission employees by other agencies may only be accepted within 10 years after the in-

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volved debt accrues. Whenever any request barred by this limitation is received in the Commission, the request shall be returned by FRMS to the requesting agency, with a copy of 4 CFR part 102, and this action shall be a complete response to the request.

(b) *Where salary requests should be filed.* Requests from other agencies for salary offset should be forwarded or addressed to:

Director, Financial and Resource Management Services, Equal Employment Opportunity Commission, 1801 L Street, NW., room 2001; Washington, DC 20507.

(c) *Form of request.* (1) Requests shall be considered only when presented with a completed and certified appropriate debt claim.

(2) The requesting agency must certify in writing that the employee owes the debt, the amount and basis of the debt, the date on which payment(s) is/are due, the date the Government's right to collect the debt first accrued, and that the requesting agency's regulations for salary offset have been approved by OPM.

(3) If the collection must be made in installments, the requesting agency must also advise FRMS of the number of installments and the commencing date of the first installment, if a date other than the next officially established pay period is required.

(4) Unless the employee has consented to the salary offset in writing or signed a statement acknowledging receipt of the required procedures, and the writing or statement is attached to the debt claim form, the requesting agency must also indicate to FRMS the action(s) taken by it under its offset regulations and give the date(s) the action(s) was/were taken.

(d) *Submitting the Request for Offset—*(1) *Current Commission employees.* The requesting agency must submit a completed and certified debt claim, agreement, or other instruction on the payment schedule to FRMS.

(2) *Separating or separated Commission employees—*(i) *Separating employees—* If the employee is in the process of separating, the requesting agency must submit its debt claim to FRMS for collection as provided in §1600.735-513 of this subpart. FRMS must certify the

total amount of its collection and notify the requesting agency and the employee as provided in paragraph (d)(2)(iii) of this section. If FRMS is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, or other similar payments, it will send a copy of the debt claim and certification to the agency responsible for making such payments as notice that a debt is outstanding. The requesting agency, however, must submit a properly certified claim to the agency responsible for making such payments before collection can be made.

(ii) *Separated employees.* If the employee is already separated and all payments due the employee from the Commission have been paid, FRMS will return the request and notify the requesting agency in writing of the employee's separation, that all payments due the employee from the Commission have been paid, and that any monies due and payable to the employee from the Civil Service Retirement and Disability Fund, or other similar funds, may be administratively offset to collect the debt.

(iii) *Transferred employees.* If, after the requesting agency has submitted the debt claim to FRMS, the employee transfers to another agency before the debt is collected in full, FRMS shall certify the total amount of the collection made on the debt. FRMS shall furnish one copy of the certification to the employee and another to the requesting agency along with a notice of the employee's transfer. FRMS shall also provide the employee's personnel office at the new agency with the original debt claim form from the requesting agency to insert in the employee's Official Personnel Folder along with a copy of the certification of the amount which has been collected. It shall be the responsibility of the requesting agency to review the debt upon receiving from FRMS a notice of the employee's transfer to make sure the collection is resumed by the employee's new agency.

(e) *Processing the debt claim upon receipt by FRMS—*(1) *Complete claim.* If FRMS receives a properly certified debt claim from another agency on a current or separating Commission em-

ployee, FRMS shall schedule the requested deductions to begin prospectively at the next officially established pay interval. Before the deductions are made, FRMS shall provide the employee a copy of the debt claim form along with notice of the amount of the deductions, and of the date deductions will commence if different from that stated in the debt claim.

(2) *Incomplete claim.* If FRMS receives an improperly completed debt claim from another agency, FRMS shall return the request with a notice that procedures under 5 U.S.C. 5514 and 5 CFR part 550, subpart K must be followed and a properly certified debt claim received before action will be taken to collect the debt from the employee's pay.

(3) *Claims disputes.* The commission is not required or authorized to review the merits of the requesting agency's determination with respect to the amount or validity of the debt as stated in the debt claim.

§ 1650.119 Salary offset request by the Commission to another agency.

(a) *Statutory limitation.* Salary offset requests by the Commission to other agencies shall only be made within 10 years after the involved debt accrues, unless the right to collect the involved debt was unknown and could not reasonably have been known by the Commission employee responsible for the discovery and collection of the involved debt.

(b) *Who may make a request for salary offset to another agency.* Unless otherwise specifically provided, salary offset requests to other agencies to collect debts due to the Commission shall only be made by the Director of FRMS.

(c) *Form of request.* (1) FRMS shall make an offset request to another agency by presenting it with a completed and certified debt claim.

(2) FRMS shall certify in writing that the employee owes the debt, the amount and basis of the debt, the date on which payment(s) is/are due, the date the Government's right to collect the debt first accrued, and that the Commission's salary offset regulations have been approved by OPM and published in the FEDERAL REGISTER.