

National Indian Gaming Commission, Interior

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the Commission, the agreement will be put in writing and signed by the employee and the Commission.

§ 513.35 What special review is available when the Commission is the creditor agency?

(a)(1) An employee subject to salary offset or a voluntary repayment agreement may, at any time, request a special review by the Commission of the amount of the salary offset or voluntary repayment, based on materially changed circumstances, including, but not limited to, catastrophic illness, divorce, death, or disability.

(2) The request for special review must include an alternative proposed offset or payment schedule and a detailed statement, with supporting documents, that shows why the current salary offset or payment results in extreme financial hardship to the employee, spouse, or dependents. The statement must indicate:

- (i) Income from all sources;
- (ii) Assets;
- (iii) Liabilities;
- (iv) Number of dependents;
- (v) Expenses for food, housing, clothing, and transportation;
- (vi) Medical expenses; and
- (vii) Exceptional expenses, if any.

(b) The Commission will evaluate the statement and documentation and determine whether the current offset or repayment schedule imposes extreme financial hardship on the employee. The Commission will notify the employee in writing within 30 calendar days of its determination, including, if appropriate, a revised offset or payment schedule. If the special review results in a revised offset or repayment schedule, the Commission will provide a new certification to the paying agency.

§ 513.36 Under what conditions will the Commission refund amounts collected by salary offset?

(a) As the creditor agency, the Commission will promptly refund any amount deducted under the authority of 5 U.S.C. 5514, when:

- (1) The Commission determines that the debt is not owed; or
- (2) An administrative or judicial order directs the Commission to make a refund.

(b) Unless required or permitted by law or contract, refunds under this section will not bear interest.

§ 513.37 What will the Commission do as the paying agency?

(a) When the Commission receives a certification from a creditor agency that has complied with the Office of Personnel Management's requirements set out at 5 CFR 550.1109, the Commission will send the employee a written notice of salary offset.

(b) If the Commission receives an incomplete certification from a creditor agency, the Commission will return the certification with notice that the procedures under 5 U.S.C. 5514 and 5 CFR 550.1104 must be followed and a properly certified claim submitted before the Commission will take action to collect the debt from the employee's current pay account.

(c) Notice to a debtor will include:

(1) The Commission's receipt of a certification from a creditor agency;

(2) The amount of the debt and the deductions to be made, which may be stated as a percentage of disposable pay; and

(3) The date and pay period when the salary offset will begin.

(d) The Commission will provide a copy of the notice of salary offset to a creditor agency.

(e) The Commission will coordinate salary deductions under this subpart as appropriate.

(f) The Commission's payroll officer will determine the amount of the debtor's disposable pay and will implement the salary offset.

(g) The Commission may use the following types of salary debt collection:

(1) Lump sum offset. If the amount of the debt is equal to or less than 15 percent of disposable pay, the debt generally will be collected through one lump sum offset.

(2) Installment deductions. The amount deducted from any period will not exceed 15 percent of the disposable pay from which the deduction is made unless the debtor has agreed in writing to the deduction of a greater amount. If possible, installment payments will liquidate the debt in three years or less.

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(3) Deductions from final check. A deduction exceeding the 15 percent of disposable pay limitation may be made from any final salary payment under 31 U.S.C. 3716 and the Federal Claims Collection Standards, in order to liquidate the debt, whether the employee is leaving voluntarily or involuntarily.

(4) Deductions from other sources. If an employee subject to salary offset is leaving the Commission and the balance of the debt cannot be liquidated by offset of the final salary check, then the Commission may offset later payments of any kind against the balance of the debt, as allowed by 31 U.S.C. 3716 and the Federal Claims Collection Standards.

(h) When two or more creditor agencies are seeking salary offsets, the Commission's payroll office may, in its discretion, determine whether one or more debts should be offset simultaneously within the 15 percent limitation.

(i) The Commission is not authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt certified by the creditor agency.

Subpart D—Administrative Wage Garnishment

§ 513.40 How will the Commission handle debt collection through administrative wage garnishment?

This part adopts all the provisions of the administrative wage garnishment regulations contained in 31 CFR 285.11, promulgated by Treasury, which allow Federal agencies to collect debts from a debtor's non-Federal pay by means of administrative wage garnishment authorized by 31 U.S.C. 3720D, and in 5 CFR parts 581 and 582, promulgated by the Office of Personnel Management, which provides for garnishment orders for child support and/or alimony and commercial garnishment of federal employees' pay.

PART 514—FEES

AUTHORITY: 25 U.S.C. 2706, 2708, 2710, 2717, 2717a.

25 CFR Ch. III (4-1-06 Edition)

§ 514.1 Annual fees.

(a) Each gaming operation under the jurisdiction of the Commission shall pay to the Commission annual fees as established by the Commission. The Commission, by a vote of not less than two of its members, shall adopt the rates of fees to be paid.

(1) The Commission shall adopt preliminary rates for each calendar year during the first quarter of that year (or as soon thereafter as possible), and, if considered necessary, shall modify those rates during the second and third quarters of the calendar year.

(2) The Commission shall adopt final rates of fees for each calendar year during the fourth quarter of that year.

(3) The Commission shall publish the rates of fees in a notice in the FEDERAL REGISTER.

(4) The rates of fees imposed shall be—

(i) No more than 2.5 percent of the first \$1,500,000 (1st tier), and

(ii) No more than 5 percent of amounts in excess of the first \$1,500,000 (2nd tier) of the assessable gross revenues from each gaming operation subject to the jurisdiction of the Commission.

(5) If a tribe has a certificate of self-regulation, the rate of fees imposed shall be no more than .25 percent of assessable gross revenues from self-regulated class II gaming operations.

(6) If a tribe is determined to be self-regulated pursuant to the provisions of 25 U.S.C. 2717(a)(2)(C), no fees shall be imposed.

(b) For purposes of computing fees, assessable gross revenues for each gaming operation are the annual total amount of money wagered on class II and III games, admission fees (including table or card fees), less any amounts paid out as prizes or paid for prizes awarded, and less an allowance for amortization of capital expenditures for structures.

(1) Unless otherwise provided by the regulations, generally accepted accounting principles shall be used.

(2) The allowance for amortization of capital expenditures for structures shall not exceed 5% of the cost of structures in use throughout the year and 2½% of the cost of structures in use during only a part of the year.