

§ 30.27

(c) If the Secretary grants an oral hearing, the Secretary designates an official to:

(1) Govern the conduct of the hearing;

(2) Take all necessary action to avoid unreasonable delay in the proceedings;

(3) Review the evidence presented at the hearing, the documents submitted by the debtor, and other relevant evidence; and

(4) After considering the evidence, notify the debtor in writing of the official's decision regarding the issues identified in the notice under § 30.22(b)(3)(ii) or § 30.33(b)(3)(ii) and, if appropriate, the question of waiver of the debt.

(d) The official designated under paragraph (c) of this section may decline to hear any witnesses or testimony not identified by the debtor in accordance with § 30.25(b)(2).

(e) The decision of the designated official under paragraph (c) of this section constitutes the final decision of the Secretary.

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

§ 30.27 When does the Secretary enter into a repayment agreement rather than offset?

(a) If a debtor wants an opportunity to enter into a written agreement to repay a debt on terms acceptable to the Secretary, the debtor must:

(1) File a request to enter into such agreement within 20 days after the date of the notice provided under § 30.22; and

(2) File the request at the address specified in the notice.

(b) A request filed under paragraph (a) of this section must contain all information provided to the debtor in the notice under § 30.22 or § 30.33(b) that identifies the debtor and the debt, including the debtor's Social Security number and the program under which the debt arose, together with any corrections of that identifying information.

(c) If the Secretary receives a request filed in accordance with this section, the Secretary may enter into a written agreement requiring repayment in accordance with 4 CFR 102.11, instead of offsetting the debt.

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(d) In deciding whether to enter into the agreement, the Secretary may consider:

(1) The Government's interest in collecting the debt; and

(2) Fairness to the debtor.

(e)(1) A debtor that enters into a repayment agreement with the Secretary under this section waives any right to further review by the Secretary of the issues relating to the original debt identified in the notice under § 30.22(b)(3)(ii) or § 30.33(b)(3)(ii).

(2) If a debtor breaches a repayment agreement, the Secretary may offset, or, under § 30.30, refer to another agency for offset:

(i) The amount owing under the agreement; or

(ii) The entire original debt, to the extent not repaid.

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

[51 FR 24099, July 1, 1986, as amended at 51 FR 35647, Oct. 7, 1986]

§ 30.28 When may the Secretary offset before completing the procedures under §§ 30.22-30.27?

(a) The Secretary may offset before completing the procedures otherwise required by §§ 30.22-30.27 if:

(1) Failure to offset would substantially prejudice the Government's ability to collect the debt; and

(2) The amount of time remaining before the payment by the United States which is subject to offset does not reasonably permit completion of the procedures under §§ 30.22-30.27.

(b) If the Secretary offsets under paragraph (a) of this section, the Secretary:

(1) Promptly completes the procedures under §§ 30.22-30.27 after initiating the offset; and

(2) Refunds any amounts recovered under the offset that are later found not to be owed to the United States.

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

§ 30.29 What procedures apply when the Secretary offsets to collect a debt owed another agency?

The Secretary may initiate offset to collect a debt owed another Federal agency if:

(a) An official of that agency certifies in writing:

(1) That the debtor owes a debt to the United States;

(2) The amount of the debt; and

(3) That the agency has complied with 4 CFR 102.3; and

(b) For offsets under 31 U.S.C. 3716, the Secretary makes an independent determination that the offset meets the standards under § 30.21(a)(2).

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

§ 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