

§ 1650.202

29 CFR Ch. XIV (7-1-03 Edition)

**§ 1650.202 Past-due legally enforceable debt.**

A past-due legally enforceable debt for referral to the IRS is a debt that resulted from any statute administered by EEOC and:

(a) Is an obligation of a debtor who is a natural person;

(b) Except in the case of a judgment debt, has been delinquent at least 3 months but not more than 10 years at the time the offset is made;

(c) Is at least \$25.00;

(d) Cannot be currently collected pursuant to the salary offset provisions of 5 U.S.C. 5514(a)(1);

(e) Is ineligible for administrative offset under 31 U.S.C. 3716(a) by reason of 31 U.S.C. 3716(c)(2) or cannot be collected by administrative offset under 31 U.S.C. 3716(a) by the EEOC against amounts payable to or on behalf of the debtor by or on behalf of the EEOC;

(f) With respect to which EEOC has given the debtor at least 60 days from the date of notification to present evidence that all or part of the debt is not past-due or legally enforceable, has considered evidence presented by such debtor, and has determined that an amount of such debt is past-due and legally enforceable;

(g) Has been disclosed by EEOC to a consumer reporting agency as authorized by 31 U.S.C. 3711(f), unless the consumer reporting agency would be prohibited from reporting such information by 15 U.S.C. 1681c, or unless the amount of the debt does not exceed \$100.00;

(h) EEOC's records do not contain evidence that the person owing that debt (or his or her spouse) has filed for bankruptcy under title 11 of the United States Code; and

(i) EEOC can clearly establish at the time of the referral that the automatic stay under 11 U.S.C. 362 has been lifted or is no longer in effect with respect to the person owing the debt or his or her spouse, and the debt was not discharged in the bankruptcy proceeding.

**§ 1650.203 Notification of intent to collect.**

(a) *Notification before submission to the IRS.* A request for reduction of an IRS income tax refund will be made only after EEOC makes a determination

that an amount is owed and past-due and gives or makes a reasonable attempt to give the debtor 60 days written notification of intent to collect by Federal tax refund offset.

(b) *Contents of notification.* EEOC's notification of intent to collect by Federal tax refund offset shall provide:

(1) The amount of the debt;

(2) That unless the debt is repaid within 60 days from the date of EEOC's notification of intent, EEOC intends to collect the debt by requesting the IRS to offset an amount equal to the amount of the debt and all accumulating interest and other charges against any overpayment of tax after liabilities subject to 26 U.S.C. 6402(a) and (c) have been satisfied;

(3) A mailing address for forwarding any written correspondence and a contact and a toll-free or collect telephone number for any questions; and

(4) That the debtor may present evidence to EEOC that all or part of the debt is not past due or legally enforceable by—

(i) Sending a written request for a review of the evidence to the address provided in the notification;

(ii) Stating in the request for review the amount disputed and the reasons why the debtor believes that the debt is not past-due or is not legally enforceable; or

(iii) Including in the request for review any documents that the debtor wishes to be considered to stating that the additional information will be submitted within the remainder of the 60-day period.

**§ 1650.204 Reasonable attempt to notify.**

In order to constitute a reasonable attempt to notify the debtor, EEOC must have used a mailing address for the debtor obtained from the IRS pursuant to 26 U.S.C. 6103(m)(2) within a period of 1 year preceding the attempt to notify the debtor, unless EEOC receives clear and concise notification from the debtor that notices from the agency are to be sent to an address different from the address obtained from IRS. Clear and concise notification means that the debtor has provided the