

agency with written notification, including the debtor's name and identifying number (as defined in 26 CFR 301.6109-1), the debtor's new address, and the debtor's intent to have the agency notices sent to the new address.

**§ 1650.205 Consideration of evidence submitted as a result of notification of intent.**

(a) *Consideration of evidence.* If, as a result of the notification of intent, EEOC receives notice that the debtor will submit additional evidence or receives additional evidence from the debtor within the prescribed time period, any referral to the IRS will be stayed until EEOC—

(1) Considers the evidence presented by the debtor;

(2) Determines whether or not all or a portion of the debt is still past-due and legally enforceable; and

(3) Notifies the debtor of its determination.

Failure to submit the evidence within 60 days from the date of notification will result in an automatic referral of the debt to IRS without further action by EEOC.

(b) *Notification to the debtor.* Following its review of the evidence, EEOC will issue a written decision notifying the debtor whether EEOC has sustained, amended, or canceled its determination that the debt is past-due and legally enforceable. The notice will advise the debtor of any further action to be taken and explain the supporting rationale for the decision.

(1) EEOC will notify the debtor of its intent to refer the debt to the IRS for offset against the debtor's Federal income tax refund if it sustains its decision that the debt is past-due and legally enforceable. EEOC will also notify the debtor whether the amount of the debt remains the same or is modified.

(2) EEOC will not refer the debt to the IRS for offset against the debtor's Federal income tax refund if it reverses its decision that the debt is past-due and legally enforceable.

**§ 1650.206 Notification to Internal Revenue Service.**

(a) Except as noted in paragraph (b) of this section, after EEOC's initial no-

tification and referral of a debt to IRS for offset against a debtor's Federal income tax refund, EEOC will promptly notify IRS of any changes in the notification, if EEOC—

(1) Determines that an error has been made with respect to the information contained in the notification;

(2) Receives a payment or credits a payment to the account of the debtor named in the notification that reduces the amount of the debt referred to IRS for offset;

(3) Receives notification that the individual owing the debt has filed for bankruptcy under title 11 of the United States Code or has been adjudicated bankrupt and the debt has been discharged;

(4) Receives notification that an offset was made at a time when the automatic stay provisions of 11 U.S.C. 362 were in effect; or

(5) Refunds all or part of the offset amount to the debtor.

(b) EEOC shall not request the IRS to increase the amount of a debt owed by a debtor named in EEOC's original notification to IRS.

(c) If the amount of a debt is reduced after referral by EEOC and offset by the IRS, EEOC will refund to the debtor or any excess amount and will promptly notify the IRS of any refund made by EEOC.

**§ 1650.207 Administrative charges.**

All administrative charges incurred in connection with the referral of the debts to the IRS will be assessed on the debt and thus increase the amount of the offset.

**Subpart C—Procedures for Collection of Debts by Administrative Offset**

SOURCE: 62 FR 32685, June 17, 1997, unless otherwise noted.

**§ 1650.301 Purpose.**

This subpart sets forth the procedures to be followed in the collection by administrative offset of debts owed to the United States. The general standards and procedures governing the collection, compromise, termination, and referral to the Department

## § 1650.302

of Justice of claims for money and property that are prescribed in the regulations issued jointly by the General Accounting Office and the Department of Justice pursuant to the Federal Claims Collection Act of 1966 (4 CFR Part 101-105) apply to the administrative collection activities of the EEOC. The Director of the Financial Management Division shall act on all claims arising out of the activities of the EEOC.

[62 FR 32685, June 17, 1997, as amended at 64 FR 28917, May 28, 1999]

### § 1650.302 Scope.

(a) *Applicability.* (1) The procedures in this subpart apply to the collection by administrative offset of debts owed to the Commission or other Federal agencies by former or current Commission employees under the authority of 31 U.S.C. 3716, common law, or any other applicable statutory authority, e.g., training expenses under 5 U.S.C. 4108, debts of employees removed for cause under 5 U.S.C. 5511, amounts owed by accountable officers under 5 U.S.C. 5512, advances of pay under 5 U.S.C. 5522, temporary duty travel advances under 5 U.S.C. 5705, and relocation advances under 5 U.S.C. 5724.

(2) The procedures in this subpart also apply to offset of debts owed to the Commission or other Federal agencies by the Commission's contractors and grant recipients.

(b) *Non-applicability.* (1) The procedures in this subpart do not apply where collection by administrative offset of the debt involved is explicitly provided for or prohibited by another statute.

(2) The procedures in this subpart also do not apply to debts owed to the Commission by other Federal agencies or debts owed to the Commission or other Federal agencies by a State or local government.

(c) *Waiver requests and claims to the GAO.* The procedures in this subpart do not preclude a debtor from requesting waiver of an erroneous payment of pay, travel, transportation, or relocation expenses under 5 U.S.C. 5584 or any other provision of law or from questioning the amount or validity of a debt by submitting a subsequent claim

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

to the U.S. Government Accounting Office.

(d) *Compromise, suspension, or termination under the Federal Claims Collection Standards.* Nothing in this subpart precludes the compromise, suspension, or termination of administrative offset collection actions, where appropriate, in accordance with the Federal Claims Collection Standards in 4 CFR chapter II.

### § 1650.303 Definitions.

For purposes of this subpart, the term *administrative offset* means the withholding of money payable by the Commission to, or held by the Commission for, a person to satisfy a debt the person owes to the Government. The term *person* means a natural person or persons, profit or non-profit corporation, partnership, association, trust, estate, consortium, or other entity which is capable of owing a debt to the United States Government except that the term does not include an agency of the United States Government or any State or a unit of a general local government. The terms *agency*, *creditor agency*, *debt*, *employee*, *FCCS*, *FRMS* and *waiver* shall have the meanings set forth in subpart A of this part.

### § 1650.304 Notice of administrative offset.

(a) *Advance notice.* At least 30 days in advance of collecting any debt by administrative offset, notice of the Commission's intent to offset shall be given to the debtor by certified mail, return receipt requested, at the most current address that is available to the Commission. The notice shall provide:

(1) A description of the nature and amount of the debt and the Commission's intention to collect the debt through administrative offset;

(2) An opportunity to inspect and copy the records of the Commission with respect to the debt;

(3) An opportunity to request review of the Commission's determinations with respect to the debt; and

(4) An opportunity to enter into a written agreement for the repayment of the amount of the debt.

(b) *Exception to the advance notice requirement.* When the procedural requirements in this subpart have been