

Department of Justice

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§ 11.4 Purpose and scope.

(a) *Purpose.* The purpose of this subpart is to implement 5 U.S.C. 5514 and 31 U.S.C. 3716, which authorize the collection by salary or administrative offset of debts owed by persons, organizations, or entities to the federal government. Generally, however, a debt may not be collected by such means if it has been outstanding for more than ten years after the agency's right to collect the debt first accrued. This subpart is consistent with the Office of Personnel Management (OPM) regulations on salary offset, codified at 5 CFR part 550, subpart K, and with regulations on administrative offset published jointly by the General Accounting Office (GAO) and the Department of Justice (Department), codified at 4 CFR part 102.

(b) *Scope.* (1) This subpart establishes Departmental procedures for the collection of certain debts owed the government.

(2) This subpart applies to collections by the Department from:

- (i) Federal employees who are indebted to the Department;
- (ii) Employees of the Department who are indebted to other agencies; and
- (iii) Other persons, organizations, or entities that are indebted to the Department.

(3) This subpart does not apply:

- (i) To debts or claims arising under the Internal Revenue Code of 1986 (26 U.S.C. *et seq.*), the Social Security Act (42 U.S.C. 301 *et seq.*), or the tariff laws of the United States;
- (ii) To a situation to which the Contract Disputes Act (41 U.S.C. 601 *et seq.*) applies; or
- (iii) In any case where collection of a debt is explicitly provided for or prohibited by another statute (*e.g.*, travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108).

(4) Nothing in this subpart precludes the compromise, suspension, or termination of collection actions where appropriate under the standards implementing the Federal Claims Collection Act (31 U.S.C. 3711 *et seq.*), namely, 4 CFR chapter II and 38 CFR 1.900-1.954).

(5) This subpart does not govern debt collection procedures implemented by other agencies.

§ 11.5 Delegation of authority.

Authority to conduct the following activities is hereby delegated to heads of Department organizations with respect to debts arising in their respective organizations:

(a) Initiate and effectuate the administrative collection process.

(b) Accept or reject compromise offers and suspend or terminate collection actions where the claim does not exceed \$100,000 or such higher amount as the Attorney General may from time to time prescribe, exclusive of interest, administrative costs, and penalties as provided herein, as set forth in 31 U.S.C. 3711(a)(2).

(c) Report to consumer reporting agencies certain data pertaining to delinquent debts.

(d) Use offset procedures to effectuate collection.

(e) Take any other action necessary to facilitate and augment collection in accordance with the policies contained herein and as otherwise provided by law.

§ 11.6 Definitions.

Except where the context clearly indicates otherwise or where the term is otherwise defined elsewhere in this subpart, the following definitions shall apply to this subpart.

(a) *Agency* means:

- (1) An executive agency as defined by 5 U.S.C. 105;
- (2) A military department as defined by 5 U.S.C. 102;
- (3) The United States Postal Service and the Postal Rate Commission;
- (4) An agency of the judicial branch, including a court as defined by 28 U.S.C. 610, the District Court for the Northern Mariana Islands, and the Judicial Panel on Multidistrict Litigation;
- (5) An agency of the legislative branch, including the U.S. Senate and the U.S. House of Representatives; and
- (6) Other entities that are establishments of the federal government.

(b) *Bureau* means the Bureau of Prisons, the Drug Enforcement Administration, the Federal Bureau of Investigation (FBI), the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), Federal Prison Industries, the

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Immigration and Naturalization Service, the Office of Justice Programs, and the United States Marshals Service (USMS).

(c) *Certification* means a written statement received by a paying agency from a creditor agency that requests the paying agency to offset the salary of an employee and specifies that appropriate procedural protections have been afforded the employee.

(d) *Components* means the bureaus, offices, boards, and divisions of the Department.

(e) *Compromise* means the forgiveness of a debt in accordance with 31 U.S.C. 3711(a)(2) and DOJ Order No. 2120.4E. (Copies of this order are available in accordance with 28 CFR part 16, subpart A.)

(f) *Creditor agency* means an agency of the federal government to which the debt is owed.

(g) *Department* or *Justice Department* means the Department of Justice and its components.

(h) *Disposable pay* means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, and, in the case of an employee not entitled to basic pay, other authorized pay, remaining after the deduction of any amount required by law to be withheld. The Department shall allow the following deductions in determining the amount of disposable pay that is subject to salary offset:

(1) Amounts withheld from benefits payable under title II of the Social Security Act where the withholding is required the law;

(2) Federal employment taxes;

(3) Amounts mandatorily withheld for the United States Soldiers' and Airmen's Home;

(4) Fines and forfeiture ordered by a court-martial or by a commanding officer;

(5) Amounts deducted for Medicare;

(6) Federal, state, or local income taxes to the extent authorized or required by law, but no greater than would be the case if the employee claimed all dependents to which he or she is entitled and such additional amounts for which the employee presents evidence of a tax obligation supporting the additional withholding;

(7) Health insurance premiums;

(8) Normal retirement contributions (e.g., Civil Service Retirement deductions, Survivor Benefit Plan payments, or Retired Servicemen's Family Protection Plan payments), not including amounts deducted for supplementary coverage; and

(9) Normal life insurance premiums (e.g., Serviceman's Group Life Insurance and "Basic Life" Federal Employee's Group Life Insurance premiums), not including amounts deducted for supplementary coverage.

(i) *Employee* means a current employee of the Justice Department or other agency, including a current member of the Armed Forces or a Reserve of the Armed Forces of the United States.

(j) *Federal Claims Collection Standards (FCCS)* means standards jointly published by the Department and the General Accounting Office in 4 CFR chapter II.

(k) *Hearing official* means an individual responsible for conducting any hearing with respect to the existence or amount of a debt claimed and for rendering a decision on the basis of such hearing. A hearing official may not be under the supervision or control of the Attorney General when the Department is the creditor agency but may be an administrative law judge.

(l) *Notice of Intent to Offset* or *Notice of Intent* means a written notice from a creditor agency to an employee, organization, or entity stating that the debtor is indebted to the creditor agency and apprising the debtor of certain procedural rights.

(m) *Notice of Salary Offset* means a written notice from the paying agency to an employee after a certification has been issued by a creditor agency, informing the employee that salary offset will begin at the next officially established pay interval.

(n) *Organization* means the bureaus individually and the offices, boards, and divisions collectively.

(o) *Organization head* means any Director, Administrator, or Commissioner of the respective Department bureaus, the Director of the United States Trustee System, the Director of the Executive Office for United States Attorneys, and the Assistant Attorney General for Administration, who shall

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serve as the organization head for the offices, boards, and divisions.

(p) *Paying agency* means the agency of the federal government that employs the individual who owes a debt to an agency of the federal government. In some cases, the Department may be both the creditor agency and the paying agency.

(q)(1) *Payroll office* means the payroll office in the paying agency that is primarily responsible for the payroll records and the coordination of pay matters with the appropriate personnel office with respect to an employee.

(2) *Applicable payroll office* means the Federal Bureau of Investigation voucher and Payroll Section with respect to FBI employees and the Justice Employee Data Service for all other employees of the Department.

(r) *Salary offset coordination officer* means an official designated by an organization head who is responsible for coordinating the debt collection activities of that organization.

[Order No. 1625-92, 57 FR 44107, Sept. 24, 1992, as amended by Order No. 2650-2003, 68 FR 4928, Jan. 31, 2003]

§ 11.7 Salary adjustments.

Any negative adjustment to pay arising out of an employee's election of coverage, or a change in coverage, under a Federal benefits program requiring periodic deductions from pay shall not be considered collection of a "debt" for the purposes of this subpart if the amount to be recovered was accumulated over four pay periods or less. In such cases, the Department need not comply with § 11.8, but it will endeavor to provide a clear and concise statement in the employee's earnings statement advising the employee of the previous overpayment at the time the adjustment is made.

§ 11.8 Salary offset.

(a) *Notice requirements before offset.* Deductions under the authority of 5 U.S.C. 5514 will not be made unless the creditor agency provides the employee with a written Notice of Intent to Offset a minimum of 30 calendar days before salary offset is initiated. When the Department is the creditor agency, this Notice of Intent shall be hand-delivered or sent by certified mail to the As-

sistant Director, Justice Employee Data Service, or to the Section Chief, Voucher and Payroll Section, Administrative Services Division, FBI, who shall then transmit the Notice of Intent to the debtor-employee. The Notice of Intent shall state:

(1) That the organization head has reviewed the records relating to the claim and has determined that a debt is owed, including the amount of the debt and the facts giving rise to the debt;

(2) The organization head's intention to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest is paid in full;

(3) A repayment schedule that includes the amount, frequency, proposed beginning date, and duration of the intended deductions;

(4) The opportunity for the employee to propose an alternative written schedule for the voluntary repayment of the debt, in lieu of offset, on terms acceptable to the Department. The employee shall include a justification in the request for the alternative schedule. The schedule shall be agreed to and signed by both the employee and the organization head;

(5) An explanation of the Department's policy concerning interest, penalties, and administrative costs, including a statement that such assessments must be made unless excused in accordance with the Federal Claims Collection Standards;

(6) The employee's right to inspect and copy all records of the Department pertaining to the debt claimed or to receive copies of such records if the debtor is unable personally to inspect the records, due to geographical or other constraints;

(7) The name, address, and telephone number of an officer or employee of the Department to whom requests for access to Department records relating to the debt must be sent;

(8) The employee's right to a hearing conducted by an impartial hearing official (an administrative law judge or other hearing official not under the supervision or control of the Attorney General) with respect to the existence and amount of the debt claimed or the