

## Department of Justice

## § 11.9

(ii) An administrative or judicial order directs the Department to make a refund.

(2) Unless required by law or contract, refunds under this paragraph (k) shall not bear interest.

(1) *Request from a creditor agency for the services of a hearing official.* (1) The Department may provide a hearing official upon request of the creditor agency when the debtor is employed by the Department and the creditor agency cannot provide a prompt and appropriate hearing before a hearing official furnished pursuant to another lawful arrangement.

(2) The Department may provide a hearing official upon request of a creditor agency when the debtor works for the creditor agency and that agency cannot arrange for a hearing official.

(3) The salary offset coordination officer shall arrange for qualified personnel to serve as hearing officials.

(4) Services rendered under this paragraph (l) shall be provided on a fully reimbursable basis pursuant to 31 U.S.C. 1535.

(m) *Non-waiver of rights by payments.* A debtor's payment, whether voluntary or involuntary, of all or any portion of a debt being collected pursuant to this section shall not be construed as a waiver of any rights that the debtor may have under any statute, regulation, or contract except as otherwise provided by law or contract.

### § 11.9 Administrative offset.

(a) *Collection.* The organization head may collect a claim pursuant to 31 U.S.C. 3716 from a person, organization, or entity other than an agency of the United States Government by administrative offset of monies other than salaries payable by the government. Collection by administrative offset shall be undertaken where the claim is certain in amount, where offset is feasible and desirable and not otherwise prohibited, where the applicable statute of limitations has not expired, and where the offset is in the best interest of the United States.

(b) *Withholding of payment.* Prior to the completion of the procedures described in paragraph (c) of this section, the Department may withhold a payment to be made to a debtor, if:

(1) Failure to withhold payment would substantially prejudice the Department's ability to collect the debt; and

(2) The time before the payment is to be made does not reasonably permit completion of the procedures described in paragraph (c) of this section. Such prior withholding shall be followed promptly by the completion of the procedures described in paragraph (c) of this section.

(c) *Debtor's rights.* Unless the procedures described in paragraph (b) of this section are used, prior to collecting any claim by administrative offset, the organization head shall provide the debtor with the following:

(1) Written notification of the nature and amount of the claim, the intention of the organization head to collect the claim through administrative offset, and a statement of the rights of the debtor under this paragraph;

(2) An opportunity to inspect and copy the records of the Department with respect to the claim;

(3) An opportunity to have the Department's determination of indebtedness reviewed by the organization head. Any request for review by the debtor shall be in writing and be submitted to the Department within 30 days of the date of the notice of the offset. The organization head may waive the time limit for requesting review for good cause shown by the debtor; and

(4) An opportunity to enter into a written agreement for the repayment of the amount of the claim at the discretion of the Department.

If the procedures described in paragraph (b) of this section are employed, the procedures described in this paragraph shall be effected after offset.

(d) *Interest.* The Department is authorized to assess interest and related charges on debts that are not subject to 31 U.S.C. 3717 to the extent authorized under the common law or other applicable statutory authority.

### Subpart C—IRS Tax Refund Offset Provisions for Collection of Debts

SOURCE: Order No. 1792-93, 58 FR 51223, Oct. 1, 1993, unless otherwise noted.