

§ 3.64

these cases, deduction will be by installments, as set forth in § 3.64.

§ 3.64 Procedures for salary offset: Methods of collection.

(a) *General.* A debt will be collected by deductions at officially-established pay intervals from an employee's current pay account, unless the employee and the Secretary agree to alternative arrangements for repayment under § 3.61.

(b) *Installment deductions.* Installment deductions will be made over a period not greater than the anticipated period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted for any period will not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount. If possible, the installment payment will be sufficient in size and frequency to liquidate the debt in no more than three years. Installment payments of less than \$25 per pay period or \$50 a month will be accepted only in the most unusual circumstances.

(c) *Sources of deductions.* The Department will make deductions only from basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay.

§ 3.65 Procedures for salary offset: Imposition of interest, penalties and administrative costs.

Interest, penalties and administrative costs will be charged in accordance with 4 CFR 102.13.

§ 3.66 Nonwaiver of rights.

So long as there are no statutory or contractual provisions to the contrary, no employee payment (or all or portion of a debt) collected under these regulations will be interpreted as a waiver of any rights that the employee may have under 5 U.S.C. 5514.

§ 3.67 Refunds.

The Department will refund promptly to the appropriate individual

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amounts offset under these regulations when:

(a) A debt is waived or otherwise found not owing the United States (unless expressly prohibited by statute or regulation); or

(b) The Department is directed by an administrative or judicial order to refund deducted from the employee's current pay.

§ 3.68 Agency regulations.

The Head of each USDA agency is delegated the authority to act for the Secretary under these regulations and may issue regulations or policies not inconsistent with Office of Personnel Management regulations (5 CFR part 550, subpart K) and regulations in this subpart governing the collection of a debt by salary offset.

Subpart D—Cooperation with the Internal Revenue Service

AUTHORITY: 26 U.S.C. 61, 31 U.S.C. 3720A, 1 TFRM 4055.50.

§ 3.81 Reporting discharged debts to the Internal Revenue Service.

When the Department discharges a debt for less than the full value of the indebtedness it will report the outstanding balance discharged, not including interest, to the Internal Revenue Service, using IRS Form 1099-G or any other form prescribed by the Service, when:

(a) The principal amount of the debt not in dispute is \$600 or more; and

(b) The obligation has not been discharged in a bankruptcy proceeding; and

(c) The obligation is no longer collectible either because the time limit in the applicable statute for enforcing collection expired during the tax year, or because during the year a formal compromise agreement was reached in which the debtor was legally discharged of all or a portion of the obligation.

[50 FR 7726, Feb. 26, 1985]

§ 3.82 Offset against tax refunds.

The Department will take action to effect administrative offset against tax refunds due to debtors under 26 U.S.C.

6402, in accordance with the provisions of 31 U.S.C. 3720A and Treasury Department regulations.

[50 FR 7726, Feb. 26, 1985]

Subpart E—Adjusted Civil Monetary Penalties

AUTHORITY: 28 U.S.C. 2461 note.

§3.91 Adjusted civil monetary penalties.

(a) *In general.* The Secretary will adjust the civil monetary penalties, listed in paragraph (b), to take account of inflation at least once every 4 years as required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. No. 101-410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. No. 104-134).

(b) *Penalties*—(1) *Agricultural Marketing Service.* (i) Civil penalty for improper pesticide recordkeeping, codified at 7 U.S.C. 136i-1(d), has:

(A) A maximum of \$550 in the case of the first offense, and

(B) A minimum of \$1,100 in the case of subsequent offenses unless the Secretary determines that the person made a good faith effort to comply.

(ii) Civil penalty for a violation of unfair conduct rule under the Perishable Agricultural Commodities Act, in lieu of license revocation or suspension, codified at 7 U.S.C. 499b(5), has a maximum of \$2,200.

(iii) Civil penalty for a violation of the licensing requirements under the Perishable Agricultural Commodities Act, codified at 7 U.S.C. 499c(a), has—

(A) A maximum of \$1,000 for each such offense and not more than \$250 for each day it continues; or

(B) A maximum of \$250 for each such offense if the Secretary determines the violation was not willful.

(iv) Civil penalty in lieu of license suspension under the Perishable Agricultural Commodities Act, codified at 7 U.S.C. 499h(e), has a maximum of \$2,000 for each violative transaction or each day the violation continues.

(v) Civil penalty for a violation of Export Apple and Pear Act, codified at 7 U.S.C. 586, has a minimum of \$110 and a maximum of \$11,000.

(vi) Civil penalty for a violation of the Export Grape and Plum Act, codified at 7 U.S.C. 596, has a minimum of \$110 and a maximum of \$11,000.

(vii) Civil penalty for a violation of an order issued by the Secretary, under the Agricultural Marketing Agreement Act of 1937, codified at 7 U.S.C. 608c(14)(B), has a maximum of \$1,100.

(viii) Civil penalty for failing to file certain reports under the Agricultural Marketing Agreement Act of 1937, codified at 7 U.S.C. 610(c), has a maximum civil penalty of \$110.

(ix) Civil penalty for a violation of seed program under the Federal Seed Act, codified at 7 U.S.C. 1596(b), has a minimum civil penalty of \$27.50 and a maximum of \$550.

(x) Civil penalty for a failure to collect an assessment or fee or for a violation of the Cotton Research and Promotion Act, codified at 7 U.S.C. 2112(b), has a maximum of \$1,100.

(xi) Civil penalty for a violation of a cease and desist order or for deceptive marketing under the Plant Variety Protection Act, codified at 7 U.S.C. 2568(b), has a minimum of \$550 and a maximum of \$11,000.

(xii) Civil penalty for failing to pay, collect, remit any assessment or fee or for violating a program regarding Potato Research and Promotion Act, codified at 7 U.S.C. 2621(b)(1), has a minimum of \$550 and a maximum of \$5,500.

(xiii) Civil penalty for failing to obey a cease and desist order under the Potato Research and Promotion Act, codified at 7 U.S.C. 2621(b)(3), has a maximum of \$550.

(xiv) Civil penalty for failing to pay, collect, remit any assessment or fee or for violating a program under the Egg Research and Consumer Information Act, codified at 7 U.S.C. 2714(b)(1), has a minimum of \$550 and a maximum of \$5,500.

(xv) Civil penalty for failing to obey a cease and desist order for a program under the Egg Research and Consumer Information Act, codified at 7 U.S.C. 2714(b)(3), has a maximum of \$550.

(xvi) Civil penalty for failing to remit any assessment or fee or for violating a program under the Beef Research and Information Act, codified at