

## § 1201.34

agency in writing. The notification to the creditor agency will include information on the employee's transfer.

### **§ 1201.34 Under what conditions will NARA make a refund of amounts collected by salary offset?**

(a) If NARA is the creditor agency, it will promptly refund any amount deducted under the authority of 5 U.S.C. 5514, when:

(1) The debt is waived or all or part of the funds deducted are otherwise found not to be owed (unless expressly prohibited by statute or regulation); or

(2) An administrative or judicial order directs NARA to make a refund.

(b) Unless required or permitted by law or contract, refunds under this section will not bear interest.

### **§ 1201.35 Will the collection of a claim by salary offset act as a waiver of my rights to dispute the claimed debt?**

No, your involuntary payment of all or any portion of a debt under this subpart will not be construed as a waiver of any rights that you may have under 5 U.S.C. 5514 or other provisions of a law or written contract, unless there are statutory or contractual provisions to the contrary.

## **Subpart D—Tax Refund Offset**

### **§ 1201.40 Which debts can NARA refer to the Treasury for collection by offsetting tax refunds?**

(a) The regulations in this subpart implement 31 U.S.C. 3720A, which authorizes the Treasury to reduce a tax refund by the amount of a past-due, legally enforceable debt owed to a Federal agency.

(b) For purposes of this section, a past-due, legally enforceable debt referable to the Treasury for tax refund offset is a debt that is owed to NARA and:

(1) Is at least \$25.00;

(2) Except in the case of a judgment debt, has been delinquent for at least three months and will not have been delinquent more than 10 years at the time the offset is made;

(3) With respect to which NARA has:

(i) Given the debtor at least 60 days to present evidence that all or part of

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the debt is not past due or legally enforceable;

(ii) Considered evidence presented by the debtor; and

(iii) Determined that an amount of the debt is past due and legally enforceable;

(4) With respect to which NARA has notified or has made a reasonable attempt to notify the debtor that:

(i) The debt is past due, and

(ii) Unless repaid within 60 days of the date of the notice, the debt may be referred to the Treasury for offset against any refund of overpayment of tax; and

(5) All other requirements of 31 U.S.C. 3720A and the Treasury regulations relating to the eligibility of a debt for tax return offset (31 CFR 285.2) have been satisfied.

### **§ 1201.41 What are NARA's procedures for collecting debts by tax refund offset?**

(a) NARA's Financial Services Division will be the point of contact with the Treasury for administrative matters regarding the offset program.

(b) NARA will ensure that the procedures prescribed by the Treasury are followed in developing information about past-due debts and submitting the debts to the Treasury.

(c) NARA will submit to the Treasury a notification of a taxpayer's liability for past-due legally enforceable debt. This notification will contain the following:

(1) The name and taxpayer identification number of the debtor;

(2) The amount of the past-due and legally enforceable debt;

(3) The date on which the original debt became past due;

(4) A statement certifying that, with respect to each debt reported, all of the requirements of § 1201.40(b) have been satisfied; and

(5) Any other information as prescribed by Treasury.

(d) For purposes of this section, notice that collection of the debt is stayed by a bankruptcy proceeding involving the debtor will bar referral of the debt to the Treasury.

(e) NARA will promptly notify the Treasury to correct data when NARA: