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Subpart M—Collection of Debts

SOURCE: 50 FR 34664, Aug. 27, 1985, unless otherwise noted.

§ 831.1301 Purpose.

This subpart prescribes procedures to be followed by the Office of Personnel Management (OPM) , which are consistent with the Federal Claims Collection Standards (FCCS) (Chapter II of title 4, Code of Federal Regulations), in the collection of debts owed to the Civil Service Retirement and Disability Fund.

§ 831.1302 Scope.

This subpart covers the collection of debts due the Civil Service Retirement and Disability Fund, with the exception of the collection of court-imposed judgments, amounts referred to the Department of Justice because of fraud, and amounts collected from back pay awards in accordance with § 550.805(e)(2) of this chapter.

§ 831.1303 Definitions.

In this subpart—

Additional charges means interest, penalties, and/or administrative costs owed on a debt.

Annuitant means a retired employee or Member of Congress, spouse, widower, or child receiving recurring benefits under the provisions of subchapter III, chapter 83, of title 5, United States Code.

Compromise is an adjustment of the total amount of the debt to be collected based upon the considerations established by the FCCS (4 CFR part 103).

Consumer reporting agency has the same meaning provided in 31 U.S.C. 3701(a)(3).

Debt means a payment of benefits to an individual in the absence of entitlement or in excess of the amount to which an individual is properly entitled.

Delinquent has the same meaning provided in 4 CFR 101.2(b).

FCCS means the Federal Claims Collection Standards (Chapter II of title 4, Code of Federal Regulations).

Offset means to withhold the amount of a debt, or a portion of that amount, from one or more payments due the debtor. Offset also means the amount withheld in this manner.

Reconsideration means the process of reexamining an individual's liability for a debt based on—

(1) Proper application of law and regulation; and

(2) Correctness of the mathematical computation.

Repayment schedule means the amount of each payment and number of payments to be made to liquidate the debt as determined by OPM.

Retirement fund means the Civil Service Retirement and Disability Fund.

Voluntary repayment agreement means an alternative to offset that is agreed to by OPM and includes a repayment schedule.

Waiver is a decision not to recover a debt under authority of 5 U.S.C. 8346(b).

§ 831.1304 Processing.

(a) *Notice.* Except as provided in § 831.1305, OPM will, before starting collection, tell the debtor in writing—

(1) The reason for and the amount of the debt;

(2) The date on which the full payment is due;

(3) OPM's policy on interest, penalties, and administrative charges;

(4) If payment in full would create financial hardship to the debtor and offset is available, the types of payment(s) to be offset, the repayment schedule, the right to request an adjustment in the repayment schedule and the right to request a voluntary repayment agreement in lieu of offset;

(5) The individual's right to inspect and/or receive a copy of the Government's records relating to the debt;

(6) The method and time period (30 calendar days) for requesting reconsideration, waiver, and/or compromise and, in the case of offset, an adjustment to the repayment schedule;

(7) The standards used by OPM for determining entitlement to waiver and compromise;

(8) The right to a hearing by the Merit Systems Protection Board on a waiver request (if OPM's waiver decision finds the individual liable) in accordance with paragraph (c)(2) of this section; and

(9) The fact that a timely filing of a request for reconsideration, waiver

and/or compromise, or a later timely appeal of a waiver denial to the Merit Systems Protection Board, will stop collection proceedings, unless (i) failure to take the offset would substantially prejudice the Government's ability to collect the debt; and (ii) the time before the payment is to be made does not reasonably permit the completion of these procedures.

(b) *Requests for reconsideration, waiver, and/or compromise.* (1) If a request for reconsideration, waiver and/or compromise is returned to us by mail, it must be postmarked within 30 calendar days of the date of the notice detailed in paragraph (a) of this section. If a request for reconsideration, waiver, and/or compromise is hand delivered, it must be received within 30 calendar days of the date of the notice detailed in paragraph (a) of this section. OPM may extend the 30 day time limit for filing when individuals can prove that they: (i) Were not notified of the time limit and were not otherwise aware of it; or (ii) were prevented by circumstances beyond their control from making the request within the time limit.

(2) When a request for reconsideration, waiver, and/or compromise covered by this paragarph is properly filed before the death of the debtor, it will be processed to completion unless the relief sought is nullified by the debtor's death.

(3) Individuals requesting reconsideration, waiver, and/or compromise will be given a full opportunity to present any pertinent information and documentation supporting their position.

(4) An individual's request for waiver will be evaluated on the basis of the standards set forth in subpart N of this part. An individual's request for compromise will be evaluated on the basis of standards set forth in the FCCS (4 CFR part 103).

(c) *Reconsideration, waiver, and/or compromise decisions.* (1) OPM's decision will be based upon the individual's written submissions, evidence of record, and other pertinent available information.

(2) After consideration of all pertinent information, a written decision will be issued. The decision will state the extent of the individual's liability, and, for waiver and compromise requests, whether the debt will be waived or compromised. If the individual is determined to be liable for all or a portion of the debt, the decision will reaffirm or modify the conditions for the collection previously proposed under paragraph (a) of this section. The decision will state the individual's right to appeal to the Merit Systems Protection Board as provided by §1201.3 of this title, and, in the case of a denial of waiver, that a timely appeal will stop collection of the debt.

§831.1305 Collection of debts.

(a) *Means of collection.* Collection of a debt may be made by means of offset under §831.1306, or under any statutory provision providing for offset of money due the debtor from the Federal Government, or by referral to the Justice Department for litigation, as provided in §831.1306. Referral may also be made to a collection agency under the provisions of the FCCS.

(b) *Additional charges.* Interest, penalties, and administrative costs will be assessed on the debt in accordance with standards established in the FCCS at 4 CFR 102.13. Additional charges will be waived when required by the FCCS. In addition, such charges may be waived when OPM determines—

(1) Collection would be against equity and good conscience under the standards prescribed in §§831.1403 through 831.1405 of this part; or

(2) Waiver would be in the best interest of the United States.

(c) *Collection in installments.* Whenever feasible, debts will be collected in one lump sum. However, when the debtor is financially unable to pay in one lump sum of fails to respond to a demand for full payment and off-set is available, installment payments may be effected. The amount of the installment payments will be set in accordance with the criteria in 4 CFR 102.11.

(d) *Commencement of collection.* (1) Except as provided in paragraph (d)(2) of this section, collection will begin after the time limits for requesting further rights stated in §831.1304(a)(6) expire or OPM has issued decisions on all timely requests for those rights and the Merit Systems Protection Board has acted on any timely appeal of a waiver denial,