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submit a copy of the referral to OPM within 180 days of the date of either notice from the agency that a claim is pending with Justice (paragraph (a) of this section) or notice from Justice that it has received a possible fraud claim (paragraph (b)(1) of this section) whichever is earlier. When the claim is referred to the agency where it arose, the agency must begin administrative collection action under 4 CFR 102.4 and send a complete debt claim to OPM as required in §831.1805.

(c) *OPM processing against refunds.* (1) Upon receipt of a notice under paragraph (a) or (b)(1) of this section, whichever is earlier, OPM will withhold the amount of the debt claim, if known; notify the debtor that the amount of the debt will be withheld from the refund for at least 180 days from the date of the notice that initiated OPM processing; and pay the balance to the debtor. If the amount of the debt claim is not known, OPM will notify the debtor that a debt claim may be offset against his or her refund and that OPM will not pay any amount until either the amount of the debt claim is established, or the time limit for filing a complaint in court or submitting the debt claim expires, whichever comes first.

(2) If the Attorney General files a complaint and notifies OPM within the applicable 180-day period, OPM will continue to withhold payment of the lump-sum credit until there is a final judgment.

(3) If the Attorney General refers the claim to the agency where the claim arose (creditor agency) and notifies OPM within the applicable 180-day period, OPM will notify the creditor agency that the procedures in this subpart and 4 CFR 102.4 must be completed; and a debt claim must be sent to OPM within 120 days of the date of OPM's notice to the creditor agency. At the request of the creditor agency, one extension of time of not more than 60 days will be granted, as provided by §831.1806(a).

(4) If OPM is not notified that a complaint has been filed or that the claim has been referred to the creditor agency within the applicable 180-day period, OPM will pay the balance of the refund to the debtor.

(d) *OPM processing against annuities.* If the debtor has filed an annuity claim, OPM will not take action against the annuity. OPM will continue to pay the annuity unless and until there is a final judgment for the United States or submission of a complete debt claim.

(e) *OPM collection and payment of the debt.* (1) If the United States obtains a judgment against the debtor for the amount of the debt or the creditor agency submits a complete debt claim, OPM will collect and pay the debt to the creditor agency as provided in §§831.1806 and 831.1807.

(2) If the suit or the administrative proceeding results in a judgment for the debtor without establishing a debt to the United States, OPM will pay the balance of the refund to the debtor upon receipt of a certified copy of the judgment or administrative decision.

Subpart S—State Income Tax Withholding

SOURCE: 47 FR 50679, Nov. 9, 1982, unless otherwise noted.

§831.1901 Definitions.

For the purpose of this subpart:

Agreement means the Federal-State agreement contained in this subpart.

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

Effective date means, with respect to a request or revocation, that the request or revocation will be reflected in payments authorized after that date, and before the next request or revocation is implemented.

Fund means the Civil Service Retirement and Disability Fund as established and described in section 8348 of title 5, United States Code.

Income tax and *State income tax* mean any form of tax for which, under a State statute, (a) collection is provided, either in imposing on employers generally the duty of withholding sums from the compensation of employees and making returns of such sums to the State or by granting to employers generally the authority to withhold

sums from the compensation of employees, if any employee voluntarily elects to make such sums withheld; and (b) the duty to withhold generally is imposed, or the authority to withhold generally is granted, with respect to the compensation of employees who are residents of the State.

Net recurring payment means the amount of annuity or survivor benefits (not recurring interim payments made while a claim is pending adjudication) payable to the annuitant on a monthly basis less the amounts currently being deducted for health benefits, Medicare, life insurance, Federal income tax, overpayment of annuity, indebtedness to the Government, voluntary allotments, waivers, or being paid to a third party or a court officer in compliance with a court order or decree.

Net withholding means the amount of State income tax deductions withheld during the previous calendar quarter as a result of requests which designated the State as payee, less similar deductions taken from prior payments which were cancelled in the previous calendar quarter. *Proper State official* means a State officer authorized to bind the State contractually in matters relating to tax administration.

Received means, in respect to the magnetic tape containing requests and revocations, received at the special mailing address established by OPM for income tax requests, or, for those items not so received, received at the OPM data processing center charged with processing requests.

Request means, in regard to a request for tax withholding, a change in the amount withheld, or revocation of a prior request, a written submission from an annuitant in a format acceptable to the State which provides the annuitant's name, Civil Service Retirement Claim number, Social Security identification number, address, the amount to be withheld and the State to which payment is to be made, which is signed by the annuitant or, in the case of incompetence, his or her representative payee.

State means a State, the District of Columbia, or any territory or possession of the United States.

§ 831.1902 Federal-State agreements.

OPM will enter into an agreement with any State within 120 days of an application for agreement from the proper State official. The terms of the standard agreement will be §§ 831.1903 through 831.1906 of this subpart. OPM and the State may agree to additional terms and provisions, insofar as those additional terms and provisions do not contradict or otherwise limit the terms of the standard agreement.

§ 831.1903 OPM responsibilities.

OPM will, in performance of this agreement:

(a) Process the magnetic tape containing State tax transactions against the annuity roll once a month at the time monthly recurring payments are prepared for the United States Treasury Department. Errors that are identified will not be processed into the file, and will be identified and returned to the State for resolution via the monthly error report. Collections of State income tax will continue in effect until the State requesting the initial action supplies either a valid revocation or change. The magnetic tape must be received 35 days prior to the date of the check in which the transactions are to be effective. For example, withholding transactions for the July 1 check must be received 5 days prior to June 1. If the magnetic tape submitted by the State cannot be read, OPM will notify the State of this fact, and if a satisfactory replacement can be supplied in time for monthly processing, it will be processed.

(b) Deduct from the regular, recurring annuity payments of an annuitant the amount he or she has so requested to be withheld, provided that:

(1) The amount of the request is an even dollar amount, not less than Five Dollars nor more than the net recurring amount. The State may set any even dollar amount above Five Dollars as a minimum withholding amount.

(2) The annuitant has not designated more than one other State for withholding purposes within the calendar year. The State can set any limit on the number of changes an annuitant may make in the amount to be withheld.