§ 204.51 [Reserved]

§ 204.52 Notification of intent to collect.

(a) Notification before tax refund offset. Reduction of an income tax refund will be made only after the Commission makes a determination that an amount is owed and past-due and gives or makes a reasonable attempt to give the debtor 60 days written notice of the intent to collect by tax refund offset.

(b) Contents of notice. The Commission’s notice of intent to collect by tax refund offset (Notice of Intent) will state:

(1) The amount of the debt;
(2) That unless the debt is repaid within 60 days from the date of the Commission’s Notice of Intent, the Commission intends to collect the debt by requesting a reduction of any amounts payable to the debtor as a Federal income tax refund by an amount equal to the amount of the debt and all accumulated interest and other charges;
(3) A mailing address for forwarding any written correspondence and a contact name and a telephone number for any questions; and
(4) That the debtor may present evidence to the Commission that all or part of the debt is not past due or legally enforceable by:

(i) Sending a written request for a review of the evidence to the address provided in the notice;
(ii) Stating in the request the amount disputed and the reasons why the debtor believes that the debt is not past due or is not legally enforceable; and
(iii) Including in the request any documents that the debtor wishes to be considered or stating that the additional information will be submitted within the remainder of the 60-day period.

(c) To the extent that a debt owed has not been established by judicial or administrative order, Commission review will be limited to issues concerning the payment or other discharge of the debt.

§ 204.53 [Reserved]

§ 204.54 Commission action as a result of consideration of evidence submitted in response to the notice of intent.

(a) Consideration of evidence. If, as a result of the Notice of Intent, the Commission receives notice that the debtor will submit additional evidence or receives additional evidence from the debtor within the prescribed time period, tax refund offset will be stayed until the Commission can:

(1) Consider the evidence presented by the debtor; and
(2) Determine whether or not all or a portion of the debt is still past due and legally enforceable; and
(3) Notify the debtor of its determination.

(b) Commission action on the debt. (1) The Commission will notify the debtor of its intent to refer the debt to the IRS for offset against the debtor’s Federal income tax refund if it sustains its decision that the debt is past-due and legally enforceable. The Commission will also notify the debtor whether the amount of the debt remains the same or is modified; and

(2) The Commission will not refer the debt to the IRS for offset against the debtor’s Federal income tax refund if it reverses its decision that the debt is past due and legally enforceable.

§ 204.55 Change in notification to Financial Management Service.

After the Commission sends FMS notification of an individual’s liability for a debt, the Commission will promptly notify FMS of any change in the notification, if the Commission:

(a) Determines that an error has been made with respect to the information contained in the notification; and
(b) Receives a payment or credits a payment to the account of the debtor.

§ 204.56 Administrative charges.

To the extent permitted by law, all administrative charges incurred in connection with the referral of the debts for tax refund offset will be assessed on the debt and thus increase the amount of the offset.

[66 FR 54132, Oct. 26, 2001]

§ 204.57–204.59 [Reserved]

Subpart D—Administrative Wage Garnishment


Source: 66 FR 54132, Oct. 26, 2001, unless otherwise noted.

§ 204.60 Purpose.

This subpart provides procedures for the Commission to collect money from a debtor’s disposable pay by means of administrative wage garnishment to satisfy a delinquent nontax debt owed to the United States.

§ 204.61 Scope.

(a) The receipt of payments pursuant to this subpart does not preclude the Commission from pursuing other debt collection remedies, including the offset of Federal payments to satisfy a delinquent nontax debt owed to the United States. The Commission may pursue such debt collection remedies separately or in conjunction with administrative wage garnishment.

(b) This subpart does not apply to the collection of delinquent nontax debt owed to the United States from the wages of Federal employees from their Federal employment. Federal pay is subject to the Federal salary offset procedures set forth in 5 U.S.C. 5514 and other applicable laws.

§ 204.62 Definitions.

The following definitions apply to this subpart:

Delinquent nontax debt means any money, funds or property that has been determined to be owed to the Commission by an individual that has not been paid by the date specified in the demand or order for payment, or applicable agreement. For purposes of this subpart, the terms “debt” and “claim” are synonymous.

Disposable pay means that part of the debtor’s compensation (including, but not limited to, salary, bonuses, commissions, and vacation pay) from an employer remaining after the deduction of health insurance premiums and any amounts required by law to be withheld. For purposes of this subpart, “amounts required by law to be withheld” include amounts for deductions such as social security taxes and withholding taxes, but do not include any amount withheld pursuant to a court order.

Employer means a person or entity that employs the services of others and that pays their wages or salaries. The term employer includes, but is not limited to, State and local Governments, but does not include an agency of the Federal Government.

Garnishment means the process of withholding amounts from an employer’s disposable pay and the paying of those amounts to a creditor in satisfaction of a withholding order.

Withholding order means any order for withholding or garnishment of pay issued by an agency, or judicial or administrative body. For purposes of this subpart, the terms “wage garnishment order” and “garnishment order” have the same meaning as “withholding order.”

§ 204.63 Notice.

(a) At least 30 days before the initiation of garnishment proceedings, the Commission will mail, by first class mail to the debtor’s last known address, a written notice informing the debtor of:

(1) The nature and amount of the debt;