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that have been submitted by Federal agencies and states to the Treasury Offset Program database. If there is a match, the Financial Management Service (or, in some cases, another Federal disbursing agency) offsets all or a portion of the Federal payment, disburses any remaining payment to the payee, and pays the offset amount to the creditor agency. Federal payments eligible for offset include, but are not limited to, income tax refunds, salary, travel advances and reimbursements, retirement and vendor payments, and Social Security and other benefit payments.

§ 19.10 How will Commerce entities use administrative offset (offset of non-tax Federal payments) to collect a Commerce debt?

(a) Centralized administrative offset through the Treasury Offset Program. (1) In most cases, the Financial Management Service uses the Treasury Offset Program to collect Commerce debts by the offset of Federal payments. See § 19.9(c) of this Part. If not already transferred to the Financial Management Service under § 19.9 of this Part, Commerce entities will refer Commerce debt over 180 days delinquent to the Treasury Offset Program for collection by centralized administrative offset. See 31 U.S.C. 3716(c)(6); 31 CFR part 285, subpart A; and 31 CFR 901.3(b). Commerce entities may refer to the Treasury Offset Program for offset any Commerce debt that has been delinquent for 180 days or less.

(2) At least sixty (60) days prior to referring a Commerce debt to the Treasury Offset Program, in accordance with paragraph (a)(1) of this section, Commerce entities will send notice to the debtor in accordance with the requirements of § 19.4 of this Part. When referring a Commerce debt for offset under this paragraph (b), Commerce entities making the request will certify, in writing, that the Commerce debt is valid, delinquent, legally enforceable, and that there are no legal bars to collection by offset. In addition, Commerce entities will certify their compliance with these regulations concerning administrative offset. See 31 CFR 901.3(c)(2)(ii).

(c) Administrative review. The notice described in §19.4 of this Part shall explain to the debtor how to request an administrative review of a Commerce entity’s determination that the debtor owes a Commerce debt and how to present evidence that the Commerce debt is not delinquent or legally enforceable. In addition to challenging the existence and amount of the Commerce debt, the debtor may seek a review of the terms of repayment. In most cases, Commerce entities will provide the debtor with a “paper hearing” based upon a review of the written record, including documentation provided by the debtor. Commerce entities shall provide the debtor with a reasonable opportunity for an oral hearing when the debtor requests reconsideration of the Commerce debt and the Commerce entity determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the Commerce debt turns on an issue of credibility or veracity. Unless otherwise required by law, an oral
hearing under this section is not re-
quired to be a formal evidentiary hear-
ing, although Commerce entities
should carefully document all signifi-
cant matters discussed at the hearing.
Commerce entities may suspend collec-
tion through administrative offset and/
or other collection actions pending the
resolution of a debtor’s dispute.

(d) Procedures for expedited offset. Under the circumstances described in 31 CFR 901.3(b)(4)(iii), Commerce enti-
ties may effect an offset against a pay-
ment to be made to the debtor prior to
sending a notice to the debtor, as de-
scribed in §19.4 of this Part, or com-
pleting the procedures described in
paragraph (b)(2) and (c) of this section.
Commerce entities shall give the debt-
or notice and an opportunity for review
as soon as practicable and promptly re-
fund any money ultimately found not
to have been owed to the Government.
Legal counsel approval to effect such
pre-notice offset is required as de-
scribed in Department of Commerce
Credit and Debt Management Oper-
ating Standards and Procedures Hand-
book (currently at http://
www.osec.doc.gov/ofm/credit/cover.htm).

§ 19.11 How will Commerce entities
use tax refund offset to collect a
Commerce debt?

(a) Tax refund offset. In most cases,
the Financial Management Service
uses the Treasury Offset Program to
collect Commerce debts by the offset of
tax refunds and other Federal pay-
ments. See §19.9(c) of this Part. If not
already transferred to the Financial
Management Service under §19.9 of this
Part, Commerce entities will refer to
the Treasury Offset Program any past-
due, legally enforceable Commerce
debt for collection by tax refund offset.
See 26 U.S.C. 6402(d), 31 U.S.C. 3720A
and 31 CFR 285.2.

(b) Notice. At least sixty (60) days
prior to referring a Commerce debt to
the Treasury Offset Program, Com-
merce entities will send notice to the
debtor in accordance with the require-
ments of §19.4 of this Part. Commerce
entities will certify to the Financial
Management Service’s Treasury Offset
Program, in writing, that the Com-
merce debt is past due and legally en-
forceable in the amount submitted and
that the Commerce entities have made
reasonable efforts to obtain payment of
the Commerce debt as described in 31
CFR 285.2(d). In addition, Commerce
entities will certify their compliance
with all applicable due process and
other requirements described in this
Part and other Federal laws. See 31
U.S.C. 3720A(b) and 31 CFR 285.2.

(c) Administrative review. The notice
described in §19.4 of this Part shall pro-
vide the debtor with at least 60 days
prior to the initiation of tax refund off-
set to request an administrative review
as described in §19.10(c) of this Part.
Commerce entities may suspend collec-
tion through tax refund offset and/or
other collection actions pending the
resolution of the debtor’s dispute.

§ 19.12 How will Commerce entities
offset a Federal employee’s salary
to collect a Commerce debt?

(a) Federal salary offset. (1) Salary offset
is used to collect debts owed to the
United States by Commerce Depart-
ment and other Federal employees. If a
Federal employee owes a Commerce
debt, Commerce entities may offset the
employee’s Federal salary to collect
the Commerce debt in the manner de-
scribed in this section. For information
on how a Federal agency other than a
Commerce entity may collect debt
from the salary of a Commerce Depart-
ment employee, see §§19.20 and 19.21,
subpart C, of this Part.

(2) Nothing in this Part requires a
Commerce entity to collect a Com-
merce debt in accordance with the pro-
visions of this section if Federal law al-
 lows otherwise. See, for example, 5
U.S.C. 5705 (travel advances not used
for allowable travel expenses are recov-
erable from the employee or his estate
by setoff against accrued pay and other
means) and 5 U.S.C. 4108 (recovery of
training expenses).

(3) Commerce entities may use the
administrative wage garnishment pro-
cedure described in §19.13 of this Part
to collect a Commerce debt from an in-
dividual’s non-Federal wages.

(b) Centralized salary offset through the
Treasury Offset Program. As described in
§19.9(a) of this Part, Commerce entities
will refer Commerce debts to the Fi-
nancial Management Service for collec-
tion by administrative offset, including