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SUPPLEMENTAL REGISTRATION STATEMENT

§ 10.8 Information to be kept current.

A supplemental statement must be filed with the Attorney General within thirty days after the expiration of each period of six months succeeding the original filing of a registration statement. Each supplemental statement must contain information and documents as may be necessary to make information and documents previously filed accurate and current with respect to the preceding six months' period.

§ 10.9 Requirements for supplemental registration statement.

The rules and regulations in this part with respect to registration statements submitted to the Attorney General under section 2 of the said act shall apply with equal force and effect to supplemental registration statements required thereunder to be filed with the Attorney General.

INSPECTION OF REGISTRATION STATEMENT

§ 10.10 Public inspection.

Registration statements filed with the Attorney General pursuant to the said act shall be available for public inspection in the Department of Justice, Washington, DC, from 10 a.m. to 4 p.m. on each official business day.

[13 FR 8292, Dec. 24, 1948]

PART 11—DEBT COLLECTION

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- 11.21 Administrative wage garnishment.
- AUTHORITY: 5 U.S.C. 301, 5514; 28 U.S.C. 509, 510; 31 U.S.C. 3711, 3716, 3718, 3720A, 3720D.
- SOURCE: Order No. 1201–87, 52 FR 24449, July 1, 1987, unless otherwise noted.

Subpart A—Retention of Private Counsel for Debt Collection

§ 11.1 Delegation of authority.

The Assistant Attorney General for Administration shall exercise the full authority of the Attorney General to develop and administer the Department of Justice program for debt collection by private counsel. This authority shall include, but is not limited to, the authority to set policies and procedures for the program, and to enter into contracts for the retention of private counsel. The Assistant Attorney General for Administration can in turn delegate authority regarding debt collection to subordinate officials as appropriate. Existing delegations of authority with respect to settlement determinations on disputed claims shall remain in force. See generally, 28 CFR 0.160 *et seq.*

[Order No. 1201–87, 52 FR 24449, July 1, 1987, as amended by AG Order 3689–2016, 81 FR 43943, July 6, 2016]

§ 11.2 Private counsel debt collection program.

The Assistant Attorney General for Administration, in consultation with the Executive Office for United States Attorneys, shall designate the districts that will participate in the program. U.S. Attorneys in the districts chosen for the program, shall direct the full cooperation and assistance of their respective offices in implementing the program. Among other things, the U.S. Attorneys shall designate an Assistant U.S. Attorney to serve as the Contracting Officer's Representative (COR)

on the contracts with private debt collection lawyers in their respective districts. The CORs will be responsible for assisting the contracting officer by supervising the work of the private counsel in their respective districts and providing necessary approvals with respect to the initiation or settlement of lawsuits or similar matters.

[Order No. 1201-87, 52 FR 24449, July 1, 1987, as amended by AG Order 3689-2016, 81 FR 43943, July 6, 2016]

§ 11.3 Compliance with existing laws.

The procurement of the services of private attorneys for debt collection shall be accomplished in accordance with the competitive procurement procedures mandated by Federal law, and set forth in 41 U.S.C. 3307. Best efforts shall be made to encourage extensive participation by law firms owned and controlled by socially and economically disadvantaged individuals and law firms that are qualified HUBZone small business concerns in the competition for award of these contracts in the program districts. Such efforts shall include, at minimum, publication of the requirement for these services in FedBizOpps and in a selection of pertinent legal publications likely to reach socially and economically disadvantaged firms, as well as sending written notice of the requirements to bar associations that have a significant socially and economically disadvantaged membership in the program districts. These special recruitment efforts will not authorize or permit preferential consideration to any bidders in selection for award of these contracts. The Department's Office of Small and Disadvantaged Business Utilization shall also make its resources available to assist in encouraging broad participation in this competition.

[Order No. 1201-87, 52 FR 24449, July 1, 1987, as amended by AG Order 3689-2016, 81 FR 43944, July 6, 2016]

Subpart B—Administration of Debt Collection

SOURCE: Order No. 1625-92, 57 FR 44107, Sept. 24, 1992, unless otherwise noted.

§ 11.4 Purpose and scope.

(a) *Purpose.* The purpose of this subpart is to implement 5 U.S.C. 5514 and 31 U.S.C. 3716, which authorize the collection by salary or administrative offset of debts owed by persons, organizations, or entities to the federal government. This subpart is consistent with the Office of Personnel Management (OPM) regulations on salary offset, codified at 5 CFR part 550, subpart K, and with regulations on administrative offset contained within the Federal Claims Collection Standards (FCCS), 31 CFR part 901.

(b) *Scope.* (1) This subpart establishes Departmental procedures for the collection of certain debts owed the government.

(2) This subpart applies to collections by the Department from:

(i) Federal employees who are indebted to the Department;

(ii) Employees of the Department who are indebted to other agencies; and

(iii) Other persons, organizations, or entities that are indebted to the Department.

(3) This subpart does not apply:

(i) To debts or claims arising under the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*), the Social Security Act (42 U.S.C. 301 *et seq.*), or the tariff laws of the United States;

(ii) To a situation to which the Contract Disputes Act (41 U.S.C. 601 *et seq.*) applies; or

(iii) In the case where collection of a debt is explicitly provided for or prohibited by another statute. The provisions of § 11.8 of this subpart do not apply to salary offset to recover travel advances under 5 U.S.C. 5705 or employee training expenses under 5 U.S.C. 4108.

(4) Nothing in this subpart precludes the compromise, suspension, or termination of collection actions where appropriate under the FCCS.

(5) This subpart does not govern debt collection procedures implemented by other agencies.

[Order No. 1625-92, 57 FR 44107, Sept. 24, 1992, as amended by Order No. 3089-2009, 74 FR 35117, July 20, 2009; AG Order 3689-2016, 81 FR 43944, July 6, 2016]

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§ 11.5 Delegation of authority.

Authority to conduct the following activities is hereby delegated to heads of Department organizations with respect to debts arising in their respective organizations:

(a) Initiate and effectuate the administrative collection process.

(b) Accept or reject compromise offers and suspend or terminate collection actions where the claim does not exceed \$100,000 or such higher amount as the Attorney General may from time to time prescribe, exclusive of interest, administrative costs, and penalties as provided herein, as set forth in 31 U.S.C. 3711(a)(2).

(c) Report to consumer reporting agencies certain data pertaining to delinquent debts.

(d) Use offset procedures to effectuate collection.

(e) Take any other action necessary to facilitate and augment collection in accordance with the policies contained herein and as otherwise provided by law.

[Order No. 1625–92, 57 FR 44107, Sept. 24, 1992, as amended by Order No. 3089–2009, 74 FR 35117, July 20, 2009]

§ 11.6 Definitions.

Except where the context clearly indicates otherwise or where the term is otherwise defined elsewhere in this subpart, the following definitions shall apply to this subpart.

(a) *Agency* means:

(1) An executive agency as defined by 5 U.S.C. 105;

(2) A military department as defined by 5 U.S.C. 102;

(3) The United States Postal Service and the Postal Rate Commission;

(4) An agency of the judicial branch, including a court as defined by 28 U.S.C. 610, the District Court for the Northern Mariana Islands, and the Judicial Panel on Multidistrict Litigation;

(5) An agency of the legislative branch, including the U.S. Senate and the U.S. House of Representatives; and

(6) Other entities that are establishments of the federal government.

(b) *Bureau* means the Bureau of Prisons, the Drug Enforcement Administration, the Federal Bureau of Investigation (FBI), the Bureau of Alcohol,

Tobacco, Firearms, and Explosives (ATF), Federal Prison Industries, the Office of Justice Programs, and the United States Marshals Service (USMS).

(c) *Certification* means a written statement received by a paying agency from a creditor agency that requests the paying agency to offset the salary of an employee and specifies that appropriate procedural protections have been afforded the employee.

(d) *Components* means the bureaus, offices, boards, and divisions of the Department.

(e) *Compromise* means the forgiveness of a debt in accordance with 31 U.S.C. 3711(a)(2) and Departmental order.

(f) *Creditor agency* means an agency of the federal government to which the debt is owed.

(g) *Department* or *Justice Department* means the Department of Justice and its components.

(h) *Disposable pay* means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, and, in the case of an employee not entitled to basic pay, other authorized pay, remaining after the deduction of any amount required by law to be withheld. The Department shall allow the following deductions in determining the amount of disposable pay that is subject to salary offset:

(1) Amounts withheld from benefits payable under title II of the Social Security Act where the withholding is required by law;

(2) Federal employment taxes;

(3) Amounts mandatorily withheld for the United States Soldiers' and Airmen's Home;

(4) Fines and forfeiture ordered by a court-martial or by a commanding officer;

(5) Amounts deducted for Medicare;

(6) Federal, state, or local income taxes to the extent authorized or required by law, but no greater than would be the case if the employee claimed all dependents to which he or she is entitled and such additional amounts for which the employee presents evidence of a tax obligation supporting the additional withholding;

(7) Health insurance premiums;

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(8) Normal retirement contributions (e.g., Civil Service Retirement deductions, Survivor Benefit Plan payments, or Retired Servicemen's Family Protection Plan payments), not including amounts deducted for supplementary coverage; and

(9) Normal life insurance premiums (e.g., Serviceman's Group Life Insurance and "Basic Life" Federal Employee's Group Life Insurance premiums), not including amounts deducted for supplementary coverage.

(i) *Employee* means a current employee of the Justice Department or other agency, including a current member of the Armed Forces or a Reserve of the Armed Forces of the United States.

(j) *Federal Claims Collection Standards (FCCS)* means standards jointly published by the Secretary of the Treasury and the Attorney General at 31 CFR parts 900-904.

(k) *Hearing official* means an individual responsible for conducting any hearing with respect to the existence or amount of a debt claimed and for rendering a decision on the basis of such hearing. A hearing official may not be under the supervision or control of the Attorney General when the Department is the creditor agency but may be an administrative law judge.

(l) *Notice of Intent to Offset* or *Notice of Intent* means a written notice from a creditor agency to an employee, organization, or entity stating that the debtor is indebted to the creditor agency and apprising the debtor of certain procedural rights.

(m) *Notice of Salary Offset* means a written notice from the paying agency to an employee after a certification has been issued by a creditor agency, informing the employee that salary offset will begin at the next officially established pay interval.

(n) *Organization* means the bureaus individually and the offices, boards, and divisions collectively.

(o) *Organization head* means any Director, Administrator, or Commissioner of the respective Department bureaus, the Director of the United States Trustee System, the Director of the Executive Office for United States Attorneys, and the Assistant Attorney General for Administration, who shall

serve as the organization head for the offices, boards, and divisions.

(p) *Paying agency* means the agency of the federal government that employs the individual who owes a debt to an agency of the federal government. In some cases, the Department may be both the creditor agency and the paying agency.

(q)(1) *Payroll office* means the payroll office in the paying agency that is primarily responsible for the payroll records and the coordination of pay matters with the appropriate personnel office with respect to an employee.

(2) *Applicable payroll office* means the Federal Bureau of Investigation voucher and Payroll Section with respect to FBI employees and the Justice Employee Data Service for all other employees of the Department.

(r) *Salary offset coordination officer* means an official designated by an organization head who is responsible for coordinating the debt collection activities of that organization.

[Order No. 1625-92, 57 FR 44107, Sept. 24, 1992, as amended by Order No. 2650-2003, 68 FR 4928, Jan. 31, 2003; Order No. 3089-2009, 74 FR 35117, July 20, 2009]

§ 11.7 Salary adjustments.

The following debts shall not be subject to the salary offset procedures of § 11.8:

(a) Any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over 4 pay periods or less;

(b) A routine intra-agency adjustment of pay that is made to correct an overpayment of pay attributable to clerical or administrative errors or delays in processing pay documents, if the overpayment occurred within the 4 pay periods preceding the adjustment and, at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and point of contact for contesting such adjustment; or

(c) Any adjustment to collect a debt amounting to \$50 or less, if, at the time

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of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment.

[Order No. 3089–2009, 74 FR 35117, July 20, 2009]

§ 11.8 Salary offset.

(a) *Notice requirements before offset.* Deductions under the authority of 5 U.S.C. 5514 will not be made unless the creditor agency provides the employee with a written Notice of Intent to Offset a minimum of 30 calendar days before salary offset is initiated. The Notice of Intent shall state:

(1) That the organization head has reviewed the records relating to the claim and has determined that a debt is owed, including the amount of the debt and the facts giving rise to the debt;

(2) The organization head's intention to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest is paid in full;

(3) A repayment schedule that includes the amount, frequency, proposed beginning date, and duration of the intended deductions;

(4) The opportunity for the employee to propose an alternative written schedule for the voluntary repayment of the debt, in lieu of offset, on terms acceptable to the Department. The employee shall include a justification in the request for the alternative schedule. The schedule shall be agreed to and signed by both the employee and the organization head;

(5) An explanation of the Department's policy concerning interest, penalties, and administrative costs, including a statement that such assessments must be made unless excused in accordance with the Federal Claims Collection Standards;

(6) The employee's right to inspect and copy all records of the Department pertaining to the debt claimed or to receive copies of such records if the debtor is unable personally to inspect the records, due to geographical or other constraints;

(7) The name, address, and telephone number of an officer or employee of the

Department to whom requests for access to Department records relating to the debt must be sent;

(8) The employee's right to a hearing conducted by an impartial hearing official (an administrative law judge or other hearing official not under the supervision or control of the Attorney General) with respect to the existence and amount of the debt claimed or the repayment schedule (*i.e.*, the percentage of disposable pay to be deducted each pay period), so long as a petition is filed by the employee as prescribed in paragraph (c)(1) of this section.

(9) The name, address, and telephone number of the officer or employee of the Department to whom a proposal for voluntary repayment must be sent; and the name, address, and telephone number of an officer or employee of the Department who may be contacted concerning procedures for requesting a hearing;

(10) The method and deadline for requesting a hearing;

(11) That the timely filing of a petition for a hearing on or before the 15th calendar day following receipt of the Notice of Intent will stay the commencement of collection proceedings;

(12) The name and address of the office to which the petition should be sent;

(13) That the Department will initiate certification procedures to implement a salary offset not less than 30 days from the date of receipt of the Notice of Intent to Offset, unless the employee files a timely petition for a hearing;

(14) That a final decision on whether a hearing will be held (if one is requested) will be issued at the earliest practical date, but not later than 60 days after the filing of the petition requesting the hearing;

(15) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(i) Disciplinary procedures appropriate under 5 U.S.C. chapter 75, 5 CFR part 752, or any other applicable statutes or regulations;

(ii) Penalties under the False Claims Act, 31 U.S.C. 3729–3731, or under any other applicable statutory authority; or

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(iii) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002 or under any other applicable statutory authority;

(16) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;

(17) That unless there are applicable contractual or statutory provisions to the contrary, amounts paid on or deducted from debts that are later waived or found not to be owed to the United States will be promptly refunded to the employee, and

(i) Interest shall be paid on any amount paid on or deducted from a debt that is found not to be owed to the United States; and

(ii) Interest shall not be paid on any amount paid on or deducted from a debt that is later waived; and

(18) That proceedings with respect to such debt are governed by 5 U.S.C. 5514.

(b) *Review of Departmental records related to the debt.* (1) An employee who desires to inspect or copy Department records related to the debt must send a letter to the official designated in the Notice of Intent requesting access to the relevant records. The letter must be received in the office of the salary offset coordination official within 15 days after the employee's receipt of the Notice of Intent.

(2) In response to a timely request submitted by the debtor, the designated salary offset coordination officer will notify the employee of the location and time when the employee may inspect and copy records related to the debt.

(3) If the employee is unable personally to inspect the records, due to geographical or other constraints, the salary offset coordination officer shall arrange to send copies of such records to the employee.

(c) *Opportunity for a hearing where the Department is the creditor agency—(1) Request for a hearing.* (i) An employee who requests a hearing on the existence or amount of the debt held by the Department or on the offset schedule proposed by the Department must send such request to the office designated in the Notice of Intent. The request or petition for a hearing must be received

by the designated office on or before the 15th calendar day following receipt by the employer of the notice.

(ii) The employee must specify whether an oral hearing is requested. If an oral hearing is desired, the request should explain why the matter cannot be resolved by review of the documentary evidence alone. The request must be signed by the employee and must fully identify and explain with reasonable specificity all the facts, evidence, and witnesses, if any, that the employee believes support his or her position.

(2) *Failure to timely submit.* If the employee files a request or petition for hearing after the expiration of the 15-calendar-day period provided for in paragraph (c)(1) of this section, the organization head may accept the request if the employee can show that the delay was the result of circumstances beyond his or her control or that he or she failed to receive actual notice of the filing deadline.

(3) *Obtaining the services of hearing official.* (i) When the debtor is not a Department employee and the Department cannot provide a prompt and appropriate hearing before an administrative law judge or other hearing official, the Department may request a hearing official from an agent of the paying agency, as designated in 5 CFR part 581, appendix A, or as otherwise designated by the paying agency.

(ii) When the debtor is a Department employee, the Department may contact any agent of another agency, as designated in 5 CFR part 581, appendix A, or as otherwise designated by the agency, to request a hearing official.

(4) *Procedure—(i) Notice.* After the employee requests a hearing, the hearing official shall notify the employee of the form of the hearing to be provided. If the hearing will be oral, the notice shall set forth the date, time, and location of the hearing, which must occur no more than 30 days after the request is received by the hearing officer. If the hearing will be conducted by examination of documents, the employee shall be notified within 30 days that he or she should submit evidence and arguments in writing to the hearing official.

(ii) *Oral hearing.* An employee who requests an oral hearing shall be provided an oral hearing if the hearing official determines that the matter cannot be resolved by review of documentary evidence alone (e.g., when an issue of credibility or veracity is involved). The hearing need not be an adversarial adjudication, and rules of evidence need not apply. Oral hearings may take the form of, but are not limited to:

(A) Informal conferences with the hearing official in which the employee and agency representative are given full opportunity to present evidence, witnesses, and argument;

(B) Informal meetings in which the hearing examiner interviews the employee; or

(C) Formal written submissions followed by an opportunity for oral presentation.

Witnesses who testify in oral hearings shall do so under oath or affirmation.

(iii) *Documentary hearing.* If the hearing official determines that an oral hearing is not necessary, he or she shall make the determination based upon a review of the written record.

(iv) *Record.* The hearing official shall maintain a summary record of any hearing conducted under this section.

(5) *Date of decision.* The hearing officer shall issue a written opinion stating his or her decision, based upon all evidence and information developed at the hearing, as soon as practicable after the hearing, but not later than 60 days after the date on which the petition was received by the hearing officer, unless the hearing was delayed at the request of the employee, in which case the 60-day decision period shall be extended by the number of days by which the hearing was postponed. Decisions not timely rendered shall result in the waiver of penalty and interest costs. The decision of the hearing official shall be final.

(6) *Content of decision.* The written decision shall include:

(i) A summary of the facts concerning the origin, nature, and amount of the debt;

(ii) The hearing official's findings, analysis, and conclusions; and

(iii) The terms of any repayment schedules, if applicable.

(7) *Failure to appear.* If, in the absence of good cause shown (e.g., illness), the employee or the representative of the Department fails to appear, the hearing official shall proceed with the hearing as scheduled, and make his or her determination based upon the oral testimony presented and the documentation submitted by both parties. At the request of both parties, the hearing official may schedule a new hearing date. Both parties shall be given reasonable notice of the time and place of this new hearing.

(d) *Certification where the Department is the creditor agency.* (1) The salary offset coordination officer shall provide a certification to the appropriate payroll office in all cases where:

(i) The hearing official determines that a debt exists; or

(ii) The employee admits the existence and amount of the debt by failing to request a hearing.

(2) The certification must be in writing and must state:

(i) That the employee owes the debt;

(ii) The amount and basis of the debt;

(iii) The date the government's right to collect the debt first accrued;

(iv) That the Department's regulations have been approved by OPM pursuant to 5 CFR part 550, subpart K;

(v) If the collection is to be made by lump-sum payment, the amount and data such payment will be collected;

(vi) If the collection is to be made in installments, the number of installments to be collected, the amount of each installment, and the commencing date of the first installment, if a date other than the next officially established pay period; and

(vii) The date the employee was notified of the debt, the action(s) taken under 5 U.S.C. 5514(a), and the dates such actions were taken.

(e) *Voluntary repayment agreements as alternative to salary offset where the Department is the creditor agency.* (1) In response to a Notice of Intent, an employee may propose to repay the debt in accordance with scheduled installment payments. Any employee who wishes to repay a debt without salary offset shall submit in writing a proposed agreement to repay the debt. The proposal shall set forth a proposed repayment schedule. Any proposal under

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this subsection must be received by the office of the official designated in the notice within 15 calendar days after receipt of the Notice of Intent.

(2) In response to a timely proposal by the debtor, the organization head shall notify the employee whether the employee's proposed written agreement for repayment is acceptable. It is within the organization head's discretion to accept or reject a repayment agreement.

(3) If the organization head decides that the proposed repayment agreement is unacceptable, the employee shall have 15 days from the date he or she received notice of the decision in which to file a petition for a hearing.

(4) If the organization head decides that the proposed repayment agreement is acceptable, the arrangement shall be put in writing and signed by both the employee and the organization head.

(f) *Special review where the Department is the creditor agency.* (1) An employee subject to salary offset or a voluntary repayment agreement may, at any time, request a special review by the Department of the amount of the salary offset or voluntary payment, based on materially changed circumstances, including but not limited to catastrophic illness, divorce, death, or disability.

(2) In determining whether, as a result of materially changed circumstances, an offset would prevent the employee from meeting essential subsistence expenses (costs incurred for food, housing, clothing, transportation, and medical care), the employee shall submit a detailed statement and supporting documents for the employee, his or her spouse, and dependents indicating:

- (i) Income for all sources;
- (ii) Assets;
- (iii) Liabilities;
- (iv) Number of dependents;
- (v) Expenses for food, housing, clothing, and transportation;
- (vi) Medical expenses; and
- (vii) Exceptional expenses, if any.

(3) If the employee requests a special review under this paragraph, the employee shall file an alternative proposed offset or payment schedule and a statement, with supporting documents,

showing why the current salary offset or payments result in an extreme financial hardship to the employee.

(4) The organization head shall evaluate the statement and supporting documents and determine whether the original offset or repayment schedule imposes an extreme financial hardship on the employee. The organization head shall notify the employee in writing within 30 days of such determination, including, if appropriate, his or her acceptance of a revised offset or payment schedule.

(5) If the special review results in a revised offset or repayment schedule, the salary offset coordination officer shall provide a new certification to the paying agency.

(g) *Notice of salary offset where the Department is the paying agency.* (1) Upon receipt of proper certification from the creditor agency, the applicable payroll office shall send the employee a written notice of salary offset. Such notice shall advise the employee that:

- (i) The certification has been received from the creditor agency; and
- (ii) Salary offset will be initiated at the next officially established pay interval.

(2) The applicable payroll office shall provide a copy of the notice to the creditor agency and advise such agency of the dollar amount to be offset and the pay period when the offset will begin.

(h) *Procedures for salary offset where the Department is the paying agency—(1) Generally.* (i) The salary offset coordination officer shall coordinate salary deductions under this section.

(ii) The applicable payroll office shall determine the amount of an employee's disposable pay and offset salary.

(iii) Deductions shall begin the pay period following receipt by the applicable payroll office of the certification or as soon thereafter as possible.

(2) *Types of collection—(i) Lump-sum payment.* If the amount of the debt is equal to or less than 15 percent of the employee's disposable pay, such debt ordinarily will be collected in one lump-sum payment.

(ii) *Installment deductions.* Installment deductions will be made over a period not greater than the anticipated

period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted from any period will not exceed 15 percent of the disposable pay from which the deduction is made unless the employee has agreed in writing to the deduction of a greater amount. The installment payment should normally be sufficient in size and frequency to liquidate the debt in no more than three years. Installment payments of less than \$50 should be accepted only in the most unusual circumstances.

(iii) *Lump-sum deductions from final check.* A lump-sum deduction exceeding 15 percent of disposable pay may be made pursuant to 31 U.S.C. 3716 from any final salary payment due a former employee in order to liquidate a debt, whether the former employee was separated voluntarily or involuntarily.

(iv) *Lump-sum deductions from other sources.* Whenever an employee subject to salary offset is separated from the Department, and the balance of the debt cannot be liquidated by offset of the final salary check, the Department, pursuant to 31 U.S.C. 3716, may offset any later payments of any kind against the balance of the debt.

(3) *Multiple debts.* Where two or more creditor agencies are seeking salary offset, or where two or more debts are owed to a single creditor agency, the applicable payroll office may, at its discretion, determine whether one or more debts should be offset simultaneously within the 15 percent limitation. The best interests of the government shall be the primary consideration in the determination by the payroll office of the order of the debt collection.

(4) *Precedence of salary deductions by the Department.* (i) For Department employees, debts owed shall be paid out of disposable pay in the following order of precedence:

- (A) Indebtedness due the Department.
- (B) Indebtedness due other agencies.
- (C) Garnishments for alimony and child support payments.
- (D) Court-ordered bankruptcy payments under the Bankruptcy Code.
- (E) Optional life insurance premiums.

(F) Other voluntary deductions including allotments and assignments, in the order determined by the paying agency.

(ii) In the event that a debt to the Department is certified while an employee is subject to salary offset to repay another agency, the applicable payroll office may decide whether the debt to the other agency should be repaid in full before collecting the Department's claim or whether changes should be made in the salary deduction being sent to the other agency. If debts owed to the Department can be collected in one pay period, the payroll office may suspend the salary offset to the other agency for that pay period in order to liquidate the Department's debt.

(i) *Coordinating salary offset with other agencies—(1) Responsibility of the Department as the creditor agency.* (i) The salary offset coordination officer shall be responsible for:

- (A) Arranging for hearing upon proper petition by a federal employee;
- (B) Preparing the Notice of Intent to Offset consistent with the requirements of paragraph (a) of this section;
- (C) Obtaining hearing officials from other agencies pursuant to paragraph (c)(3) of this section; and
- (D) Ensuring that each certification of debt is sent to a paying agency pursuant to paragraph (d)(2) of this section.

(ii) Upon completion of the procedures established in paragraphs (a) through (f) of this section, the salary offset coordination officer shall submit a debt claim and an installment agreement or other instruction on the payment schedule, if applicable, to the employee's paying agency.

(iii) If the employee is in the process of separating from government employment, the Department shall submit its debt claim to the employee's paying agency for collection by lump-sum deductions from the employee's final check. The paying agency shall certify the total amount of its collection and furnish a copy of the certification to the Department and to the employee.

(iv) If the employee is already separated and all payments due from his or her former paying agency have been

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paid, the Department may, unless otherwise prohibited, request that money due and payable to the employee from the federal government be administratively offset to collect the debt.

(v) When an employee transfers to another paying agency, the Department shall not repeat the procedures described in paragraphs (a) through (f) of this section in order to resume collecting the debt. Instead, the Department shall review the debt upon receiving the former paying agency's notice of the employee's transfer and shall ensure the collection is resumed by the new paying agency.

(2) *Responsibility of the Department as the paying agency*—(i) *Complete claim.* When the Department receives a certified claim from a creditor agency, the employee shall be given written notice of the certification, the date salary offset will begin, and the amount of the periodic deductions. Deductions shall be scheduled to begin at the next officially established pay interval or as soon thereafter as possible.

(ii) *Incomplete claim.* When the Department receives an incomplete certification of debt from a creditor agency, the Department shall return the debt claim with notice that procedures under 5 U.S.C. 5514 and 5 CFR 550.1104 must be followed and that a properly certified debt claim must be received before action will be taken to collect from the employee's current pay account.

(iii) *Review.* The Department is not authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt certified by the creditor agency.

(iv) *Employees who transfer from one paying agency to another.* If, after the creditor agency has submitted the debt claim to the Department, the employee transfers to an agency outside the Department before the debt is collected in full, the Department must certify the total amount collected on the debt. One copy of the certification shall be furnished to the employee and one copy shall be sent to the creditor agency along with notice of the employee's transfer.

(j) *Interest, penalties, and administrative costs.* Where the Department is the

creditor agency, it shall assess interest, penalties, and administrative costs pursuant to 31 U.S.C. 3717 and 31 CFR 901.9.

(k) *Refunds.* (1) Where the Department is the creditor agency, it shall promptly refund any amount deducted under the authority of 5 U.S.C. 5514 when:

(i) The debt is compromised or otherwise found not to be owing to the United States; or

(ii) An administrative or judicial order directs the Department to make a refund.

(2) Unless required by law or contract, refunds under this paragraph (k) shall not bear interest.

(1) *Request from a creditor agency for the services of a hearing official.* (1) The Department may provide a hearing official upon request of the creditor agency when the debtor is employed by the Department and the creditor agency cannot provide a prompt and appropriate hearing before a hearing official furnished pursuant to another lawful arrangement.

(2) The Department may provide a hearing official upon request of a creditor agency when the debtor works for the creditor agency and that agency cannot arrange for a hearing official.

(3) The salary offset coordination officer shall arrange for qualified personnel to serve as hearing officials.

(4) Services rendered under this paragraph (1) shall be provided on a fully reimbursable basis pursuant to 31 U.S.C. 1535.

(m) *Non-waiver of rights by payments.* A debtor's payment, whether voluntary or involuntary, of all or any portion of a debt being collected pursuant to this section shall not be construed as a waiver of any rights that the debtor may have under any statute, regulation, or contract except as otherwise provided by law or contract.

[Order No. 1625-92, 57 FR 44107, Sept. 24, 1992, as amended by Order No. 3089-2009, 74 FR 35117, July 20, 2009]

§ 11.9 Administrative offset.

(a) *Collection.* The organization head may collect a claim pursuant to 31 U.S.C. 3716 from a person, organization, or entity other than an agency of the

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United States Government by administrative offset of monies other than salaries payable by the government. Collection by administrative offset shall be undertaken where the claim is certain in amount, where offset is feasible and desirable and not otherwise prohibited, where the applicable statute of limitations has not expired, and where the offset is in the best interest of the United States.

(b) *Withholding of payment.* Prior to the completion of the procedures described in paragraph (c) of this section, the Department may withhold a payment to be made to a debtor, if:

(1) Failure to withhold payment would substantially prejudice the Department's ability to collect the debt; and

(2) The time before the payment is to be made does not reasonably permit completion of the procedures described in paragraph (c) of this section. Such prior withholding shall be followed promptly by the completion of the procedures described in paragraph (c) of this section.

(c) *Debtor's rights.* Unless the procedures described in paragraph (b) of this section are used, prior to collecting any claim by administrative offset, the organization head shall provide the debtor with the following:

(1) Written notification of the nature and amount of the claim, the intention of the organization head to collect the claim through administrative offset, and a statement of the rights of the debtor under this paragraph;

(2) An opportunity to inspect and copy the records of the Department with respect to the claim;

(3) An opportunity to have the Department's determination of indebtedness reviewed by the organization head. Any request for review by the debtor shall be in writing and be submitted to the Department within 30 days of the date of the notice of the offset. The organization head may waive the time limit for requesting review for good cause shown by the debtor; and

(4) An opportunity to enter into a written agreement for the repayment of the amount of the claim at the discretion of the Department.

If the procedures described in paragraph (b) of this section are employed,

the procedures described in this paragraph shall be effected after offset.

(d) *Interest.* The Department is authorized to assess interest and related charges on debts that are not subject to 31 U.S.C. 3717 to the extent authorized under the common law or other applicable statutory authority.

Subpart C—Collection of Debts by Administrative and Tax Refund Offset

SOURCE: Order No. 1792-93, 58 FR 51223, Oct. 1, 1993, unless otherwise noted.

§ 11.10 Scope.

(a) The provisions of 31 U.S.C. 3716 allow the head of an agency to collect a debt through administrative offset. The provisions of 31 U.S.C. 3716 and 3720A authorize the Secretary of the Treasury, acting through the Bureau of the Fiscal Service (BFS) and other Federal disbursing officials, to offset certain payments to collect delinquent debts owed to the United States. This subpart authorizes the collection of debts owed to the United States by persons, organizations, and other entities by offsetting Federal and certain state payments due to the debtor. It allows for collection of debts that are past due and legally enforceable through offset, regardless of whether the debts have been reduced to judgment.

(b) Nothing in this subpart precludes the Department from pursuing other debt collection procedures to collect a debt that has been submitted to the Department of the Treasury under this subpart. The Department may use such debt collection procedures separately or in conjunction with the offset procedures of this subpart.

[AG Order 3689-2016, 81 FR 43944, July 6, 2016]

§ 11.11 Definitions.

(a) *Debt.* Debt means any amount of funds or property that an appropriate official of the Federal Government or a court of competent jurisdiction determines is owed to the United States, including any amounts owed to the United States for the benefit of a third party, by a person, organization, or entity other than another Federal agency. For purposes of this section, the

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term debt does not include debts arising under the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*), the tariff laws of the United States, or the Social Security Act (42 U.S.C. 301 *et seq.*), except that “delinquent amounts” as defined in sections 204(f) and 1631(b)(4) of such Act (42 U.S.C. 404(f) and 1383(b)(4)(A), respectively) are included in the term debt, as are “administrative offset[s]” collectible pursuant to 31 U.S.C. 3716(c). Debts that have been referred to the Department of Justice by other agencies for collection are included in this definition.

(b) *Past due.* A past due debt means a debt that has not been paid or otherwise resolved by the date specified in the initial demand for payment, or in an applicable agreement or other instrument (including a post-delinquency repayment agreement), unless other payment arrangements satisfactory to the Department have been made. Judgment debts remain past due until paid in full.

(c) *Notice.* Notice means the information sent to the debtor pursuant to § 11.12(b). The date of the notice is the date shown on the notice letter as its date of issuance.

(d) *Dispute.* A dispute is a written statement supported by documentation or other evidence that all or part of an alleged debt is not past due or legally enforceable, that the amount is not the amount currently owed, that the outstanding debt has been satisfied, or, in the case of a debt reduced to judgment, that the judgment has been satisfied or stayed.

(e) *Legally enforceable.* Legally enforceable means that there has been a final agency or court determination that the debt, in the amount stated, is due, and there are no legal bars to collection by offset.

[Order No. 1792-93, 58 FR 51223, Oct. 1, 1993, as amended by AG Order 3689-2016, 81 FR 43944, July 6, 2016]

§ 11.12 Centralized offset.

(a) The Department must refer any legally enforceable debt more than 120 days past-due to BFS for administrative offset under 31 U.S.C. 3716(c)(6). The Department must refer any past-due, legally enforceable debt to BFS for tax refund offset purposes pursuant

to 31 U.S.C. 3720A(a) at least once a year. Before referring debts for offset, the Department must certify to BFS compliance with the provisions of 31 U.S.C. 3716(a) and 3720A(b). There is no time limit on when a debt can be collected by offset.

(b) The Department will provide the debtor with written notice of its intent to offset before initiating the offset. Notice will be mailed to the debtor at the current address of the debtor, as determined from information obtained from the IRS pursuant to 26 U.S.C. 6103(m)(2), (4), (5) or from information regarding the debt maintained by the Department of Justice. The notice sent to the debtor will state the amount of the debt and inform the debtor that:

(1) The debt is past due;

(2) The Department intends to refer the debt to BFS for offset purposes;

(3) Before the debt is referred to BFS for offset purposes, the debtor has 60 days from the date of notice to present evidence that all or part of the debt is not past due, that the amount is not the amount currently owed, that the outstanding debt has been satisfied, or, if the debt is a judgment debt, that the debt has been satisfied, or that collection action on the debt has been stayed.

(c) If the debtor neither pays the amount due nor presents evidence that the amount is not past due or is satisfied or that collection action is stayed, the Department will refer the debt to BFS for offset purposes.

(d) A debtor may request a review by the Department if the debtor believes that all or part of the debt is not past due or is not legally enforceable, or, in the case of a judgment debt, that the debt has been stayed or the amount satisfied, as follows:

(1) The debtor must send a written request for review to the address provided in the notice.

(2) The request must state the amount disputed and the reasons why the debtor believes that the debt is not past due, is not legally enforceable, has been satisfied, or, if a judgment debt, has been satisfied or stayed.

(3) The request must include any documents that the debtor wishes to be

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considered or state that additional information will be submitted within the time permitted.

(4) If the debtor wishes to inspect records establishing the nature and amount of the debt, the debtor must request an opportunity for such an inspection in writing. The office holding the relevant records shall make them available for inspection during normal business hours.

(5) The request for review and any additional information submitted pursuant to the request must be received by the Department at the address stated in the notice within 60 days of the date of issuance of the notice.

(6) The Department will review disputes and shall consider its records and any documentation and arguments submitted by the debtor. The Department's decision to refer to the BFS any disputed portion of the debt shall be made by the Assistant Attorney General for Administration or his designee, who shall hold a position at least one supervisory level above the person who made the decision to offset the debt. The Department shall send a written notice of its decision to the debtor. There is no administrative appeal of this decision.

(7) If the evidence presented by the debtor is considered by a non-Departmental agent or other entities or persons acting on the Department's behalf, the debtor will be accorded at least 30 days from the date the agent or other entity or person determines that all or part of the debt is past-due and legally enforceable to request review by an officer or employee of the Department of any unresolved dispute.

(8) Any debt that previously has been reviewed pursuant to this section or any other section of this part, or that has been reduced to a judgment, may not be disputed except on the grounds of payments made or events occurring subsequent to the previous review of judgment.

(e) The Department will notify the BFS of any change in the amount due promptly after receipt of payments or notice of other reductions.

(f) If more than one debt is owed, payments eligible for offset will be ap-

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plied in the order in which the debts became past due.

[Order No. 1792-93, 58 FR 51223, Oct. 1, 1993, as amended by AG Order 3689-2016, 81 FR 43944, July 6, 2016]

§ 11.13 Non-centralized offset.

(a) When offset under § 11.12 of this part is not available or appropriate, the Department may collect past-due, legally enforceable debts through non-centralized administrative offset. See 31 CFR 901.3(c). In these cases, the Department may offset a payment internally or make an offset request directly to a Federal payment agency.

(b) At least 30 days before offsetting a payment internally or requesting a Federal payment agency to offset a payment, the Department will send notice to the debtor in accordance with the requirements of 31 U.S.C. 3716(a). When referring a debt for offset under this paragraph (b), the Department will certify, in writing, that the debt is valid, delinquent, legally enforceable, and that there are no legal bars to collection by offset. In addition, the Department will certify its compliance with these regulations concerning administrative offset. See 31 CFR 901.3(c)(2)(ii).

[AG Order 3689-2016, 81 FR 43944, July 6, 2016]

Subpart D—Administrative Wage Garnishment

SOURCE: AG Order 3689-2016, 81 FR 43944, July 6, 2016, unless otherwise noted.

§ 11.21 Administrative wage garnishment.

(a) *Purpose.* In accordance with the Department of the Treasury government-wide regulation at 31 CFR 285.11, this section provides procedures for the Department of Justice (Department) to collect money from a debtor's disposable pay by means of administrative wage garnishment to satisfy delinquent nontax debt owed to the United States through operation of Department programs.

(b) *Scope.* (1) This section shall apply notwithstanding any provision of State law.

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(2) Nothing in this section precludes the compromise of a debt or the suspension or termination of collection action in accordance with applicable law. See, for example, the Federal Claims Collection Standards (FCCS), 31 CFR parts 900-904.

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

(4) This section 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.

(5) Nothing in this section requires the Department to duplicate notices or administrative proceedings required by contract or other laws or regulations.

(c) *Definitions.* As used in this section the following definitions shall apply:

Agency means the Department of Justice.

Business day means Monday through Friday. For purposes of computation, the last day of the period will be included unless it is a Federal legal holiday.

Day means calendar day. For purposes of computation, the last day of the period will be included unless it is a Saturday, a Sunday, or a Federal legal holiday.

Debt or *claim* means any amount of money, funds or property that an appropriate official of the Federal Government determines is owed to the United States by an individual, including debt administered by a third party as an agent for the Federal Government.

Debtor means an individual who owes a delinquent nontax debt to the United States.

Delinquent nontax debt means any nontax debt that has not been paid by the date specified in the agency's initial written demand for payment, or applicable agreement, unless other sat-

isfactory payment arrangements have been made. For purposes of this section, the terms "debt" and "claim" are synonymous and refer to delinquent nontax debt.

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 section, "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.

Evidence of service means information retained by the agency indicating the nature of the document to which it pertains, the date of mailing of the document, and to whom the document is being sent. Evidence of service may be retained electronically so long as the manner of retention is sufficient for evidentiary purposes.

Garnishment means the process of withholding amounts from an employee'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 the agency, or judicial or administrative body. For purposes of this section, the terms "wage garnishment order" and "garnishment order" have the same meaning as "withholding order."

(d) *General rule.* Whenever the agency determines that a delinquent debt is owed by an individual, the agency may initiate proceedings administratively to garnish the wages of the delinquent debtor.

(e) *Notice requirements.* (1) At least 30 days before initiating garnishment proceedings, the agency shall mail, by first class mail, to the debtor's last

known address, a written notice informing the debtor of:

(i) The nature and amount of the debt;

(ii) The intention of the agency to initiate proceedings to collect the debt through deductions from pay until the debt and all accumulated interest, penalties, and administrative costs are paid in full; and

(iii) An explanation of the debtor's rights, including those set forth in paragraph (e)(2) of this section, and the time frame within which the debtor may exercise those rights.

(2) The debtor shall be afforded the opportunity:

(i) To inspect and copy agency records related to the debt;

(ii) To enter into a written repayment agreement with the agency under terms agreeable to the agency; and

(iii) For a hearing in accordance with paragraph (f) of this section concerning the existence or the amount of the debt or the terms of the proposed repayment schedule under the garnishment order. However, the debtor is not entitled to a hearing concerning the terms of the proposed repayment schedule if these terms have been established by written agreement under paragraph (e)(2)(ii) of this section.

(3) The agency will retain evidence of service indicating the date of mailing of the notice.

(f) *Hearing*—(1) *Request for hearing.* If the debtor submits a written request for a hearing concerning the existence or amount of the debt or the terms of the repayment schedule (for those repayment schedules not established by written agreement under paragraph (e)(2)(ii) of this section), the agency shall provide a hearing, which at the agency's option may be oral or written.

(2) *Type of hearing or review.* (i) For purposes of this section, whenever the agency is required to afford a debtor a hearing, the agency shall provide the debtor with a reasonable opportunity for an oral hearing when the agency determines that the issues in dispute cannot be resolved by review of the documentary evidence, as, for example, when the validity of the claim turns on the issue of credibility or veracity.

(ii) If the agency determines that an oral hearing is appropriate, the time

and location of the hearing shall be established by the agency. An oral hearing may, at the debtor's option, be conducted either in person or by telephone conference. All travel expenses incurred by the debtor in connection with an in-person hearing will be borne by the debtor. All telephonic charges incurred during the hearing will be the responsibility of the agency.

(iii) In those cases where an oral hearing is not provided under this section, the agency shall nevertheless accord the debtor a "paper hearing," that is, the agency will decide the issues in dispute based upon a review of the written record. The agency will establish a reasonable deadline for the submission of evidence.

(3) *Effect of agency receipt of hearing request within 15 business days of notice.* Subject to paragraph (f)(12) of this section, if the debtor's written request is received by the agency on or before the 15th business day following the mailing of the notice described in paragraph (e)(1) of this section, the agency shall not issue a withholding order under paragraph (g) of this section until the agency provides the debtor the requested hearing and renders a decision in accordance with paragraphs (f)(9) and (10) of this section.

(4) *Effect of agency receipt of hearing request after 15 business days of notice.* If the debtor's written request is received by the agency after the 15th business day following the mailing of the notice described in paragraph (e)(1) of this section, the agency shall provide a hearing to the debtor. However, the agency will not delay issuance of a withholding order unless the agency determines that the delay in filing the request was caused by factors over which the debtor had no control, or the agency receives information that the agency believes justifies a delay or cancellation of the withholding order.

(5) *Hearing official.* A hearing official may be any qualified individual, as determined by the head of the agency, including an administrative law judge.

(6) *Procedure.* After the debtor requests a hearing, the hearing official shall notify the debtor of:

(i) The date and time of a telephonic hearing;

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(ii) The date, time, and location of an in-person oral hearing; or

(iii) The deadline for the submission of evidence for a written hearing.

(7) *Burden of proof.* (i) The agency will have the initial burden of proving, by a preponderance of the evidence, the existence or amount of the debt.

(ii) If the agency satisfies its initial burden, and the debtor disputes the existence or amount of the debt, the debtor must prove, by a preponderance of the evidence, that no debt exists or that the amount of the debt is incorrect. In addition, the debtor may present evidence that the terms of the repayment schedule are unlawful or would cause a financial hardship to the debtor, or that collection of the debt may not be pursued due to operation of law.

(8) *Record.* The hearing official must maintain a summary record of any hearing provided under this section. A hearing is not required to be a formal evidentiary-type hearing. However, witnesses who testify in in-person or telephonic hearings will do so under oath or affirmation.

(9) *Date of decision.* The hearing official shall issue a written opinion stating the decision as soon as practicable, but not later than 60 days after the date on which the request for such hearing was received by the agency. If an agency is unable to provide the debtor with a hearing and render a decision within 60 days after the receipt of the request for such hearing:

(i) The agency may not issue a withholding order until the hearing is held and a decision rendered; or

(ii) If the agency had previously issued a withholding order to the debtor's employer, the agency must suspend the withholding order beginning on the 61st day after the receipt of the hearing request and continuing until a hearing is held and a decision is rendered.

(10) *Content of decision.* The written decision shall include:

(i) A summary of the facts presented;

(ii) The hearing official's findings, analysis, and conclusions; and

(iii) The terms of any repayment schedules, if applicable.

(11) *Final agency action.* The hearing official's decision will be final agency

action for purposes of judicial review under the Administrative Procedure Act (5 U.S.C. 701 *et seq.*).

(12) *Failure to appear.* In the absence of good cause shown, a debtor who fails to appear at a hearing scheduled pursuant to paragraph (f)(3) of this section will be deemed as not having timely filed a request for a hearing.

(g) *Wage garnishment order.* (1) Unless the agency receives information that the agency believes justifies a delay or cancellation of the withholding order, the agency will send, by first class mail, a withholding order to the debtor's employer:

(i) Within 30 days after the debtor fails to make a timely request for a hearing (*i.e.*, within 15 business days after the mailing of the notice described in paragraph (e)(1) of this section), or,

(ii) If the debtor makes a timely request for a hearing, within 30 days after a final decision is made by the agency to proceed with garnishment, or

(iii) As soon as reasonably possible thereafter.

(2) The withholding order sent to the employer under paragraph (g)(1) of this section shall be in a form prescribed by the Secretary of the Treasury. The withholding order shall contain the signature of, or the image of the signature of, the head of the agency or that person's delegatee. The order shall contain only the information necessary for the employer to comply with the withholding order. Such information includes the debtor's name, address, and Social Security Number, as well as instructions for withholding and information as to where payments should be sent.

(3) The agency will retain evidence of service indicating the date of mailing of the order.

(h) *Certification by employer.* Along with the withholding order, the agency shall send to the employer a certification in a form prescribed by the Secretary of the Treasury. The employer shall complete and return the certification to the agency within the time frame prescribed in the instructions to the form. The certification will address matters such as information about the

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debtor's employment status and disposable pay available for withholding.

(i) *Amounts withheld.* (1) After receipt of the garnishment order issued under this section, the employer shall deduct from all disposable pay paid to the applicable debtor during each pay period the amount of garnishment described in paragraph (i)(2) of this section.

(2)(i) Subject to the provisions of paragraphs (i)(3) and (4) of this section, the amount of garnishment shall be the lesser of:

(A) The amount indicated on the garnishment order up to 15% of the debtor's disposable pay; or

(B) The amount set forth in 15 U.S.C. 1673(a)(2) (Restriction on Garnishment). That amount is the amount by which a debtor's disposable pay exceeds an amount equivalent to thirty times the Federal minimum wage. See 29 CFR 870.10.

(3) When a debtor's pay is subject to withholding orders with priority the following shall apply:

(i) Unless otherwise provided by Federal law, withholding orders issued under this section shall be paid in the amounts set forth under paragraph (i)(2) of this section and shall have priority over withholding orders that are served later in time. Notwithstanding the foregoing, withholding orders for family support shall have priority over withholding orders issued under this section.

(ii) If amounts are being withheld from a debtor's pay pursuant to a withholding order served on an employer before a withholding order issued pursuant to this section, or if a withholding order for family support is served on an employer at any time, the amounts withheld pursuant to the withholding order issued under this section shall be the lesser of:

(A) The amount calculated under paragraph (i)(2) of this section, or

(B) An amount equal to 25% of the debtor's disposable pay less the amount(s) withheld under the withholding order(s) with priority.

(iii) If a debtor owes more than one debt to the agency, the agency may issue multiple withholding orders if the total amount garnished from the debtor's pay for such orders does not exceed

the amount set forth in paragraph (i)(2) of this section.

(4) An amount greater than that set forth in paragraphs (i)(2) and (3) of this section may be withheld upon the written consent of the debtor.

(5) The employer shall promptly pay to the agency all amounts withheld under the withholding order issued pursuant to this section.

(6) An employer shall not be required to vary its normal pay and disbursement cycles in order to comply with the withholding order.

(7) Any assignment or allotment by an employee of the employee's earnings shall be void to the extent it interferes with or prohibits execution of the withholding order issued under this section, except for any assignment or allotment made pursuant to a family support judgment or order.

(8) The employer shall withhold the appropriate amount from the debtor's wages for each pay period until the employer receives notification from the agency to discontinue wage withholding. The garnishment order shall indicate a reasonable period of time within which the employer is required to commence wage withholding.

(j) *Exclusions from garnishment.* The agency may not garnish the wages of a debtor who it knows has been involuntarily separated from employment until the debtor has been reemployed continuously for at least 12 months. To qualify for this exclusion, upon the request of the agency, the debtor must inform the agency of the circumstances surrounding an involuntary separation from employment.

(k) *Financial hardship.* (1) A debtor whose wages are subject to a wage withholding order under this section, may, at any time, request a review by the agency of the amount garnished, based on materially changed circumstances such as disability, divorce, or catastrophic illness that result in financial hardship.

(2) A debtor requesting a review under paragraph (k)(1) of this section shall submit the basis for claiming that the current amount of garnishment results in a financial hardship to the debtor, along with supporting documentation. The agency shall consider

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any information submitted in accordance with procedures and standards established by the agency.

(3) If the agency finds financial hardship, it shall downwardly adjust, by an amount and for a period of time agreeable to the agency, the amount garnished to reflect the debtor's financial condition. The agency will notify the employer of any adjustments to the amounts to be withheld.

(1) *Ending garnishment.* (1) Once the agency has fully recovered the amounts owed by the debtor, including interest, penalties, and administrative costs consistent with the FCCS, the agency shall send the debtor's employer notification to discontinue wage withholding.

(2) At least annually, an agency shall review its debtors' accounts to ensure that accounts that have been paid in full are no longer subject to garnishment.

(m) *Actions prohibited by the employer.* An employer may not discharge, refuse to employ, or take disciplinary action against the debtor due to the issuance of a withholding order under this section.

(n) *Refunds.* (1) If a hearing official, at a hearing held pursuant to paragraph (f)(2) of this section, determines that a debt is not legally due and owing to the United States, the agency shall promptly refund any amount collected by means of administrative wage garnishment.

(2) Unless required by Federal law or contract, refunds under this section shall not bear interest.

(o) *Right of action.* The agency may sue any employer for any amount that the employer fails to withhold from wages owed and payable to an employee in accordance with paragraphs (g) and (i) of this section. However, a suit may not be filed before the termination of the collection action involving a particular debtor, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period. For purposes of this section, "termination of the collection action" occurs when the agency has terminated collection action in accordance with the FCCS or other applicable standards. In any event, termination of the collection action will be deemed to

have occurred if the agency has not received any payments to satisfy the debt from the particular debtor whose wages were subject to garnishment, in whole or in part, for a period of 1 year.

PART 12—REGISTRATION OF CERTAIN PERSONS HAVING KNOWLEDGE OF FOREIGN ESPIONAGE, COUNTERESPIONAGE, OR SABOTAGE MATTERS UNDER THE ACT OF AUGUST 1, 1956

Sec.

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AUTHORITY: Sec. 5, 70 Stat. 900; 50 U.S.C. 854.

CROSS REFERENCE: For Organization Statement, Internal Security Section, see subpart K of part 0 of this chapter.

SOURCE: 21 FR 5928, Aug. 8, 1956, unless otherwise noted.

§ 12.1 Definitions.

As used in this part, unless the context otherwise requires:

(a) The term *act* means the act of August 1, 1956, Public Law 893, 84th Congress, 2d Session, requiring the registration of certain persons who have knowledge of, or have received instruction or assignment in the espionage, counterespionage, or sabotage service or tactics of a foreign government or foreign political party.

(b) The term *Attorney General* means the Attorney General of the United States.

(c) The term *rules and regulations* refers to all rules, regulations, registration forms, and instruction to forms