

section 11 of the Administrative Dispute Resolution Act (Public Law 101-552, [former] 5 U.S.C. 571 note) shall not apply to the amendment made by section 8(b) of such Act [amending this section].”

#### GUIDELINES

Pub. L. 104-134, title III, §31001(aa)(1), Apr. 26, 1996, 110 Stat. 1321-379, provided that: “The Secretary of the Treasury, in consultation with concerned Federal agencies, may establish guidelines, including information on outstanding debt, to assist agencies in the performance and monitoring of debt collection activities.”

#### REPORT

Pub. L. 104-134, title III, §31001(aa)(2), Apr. 26, 1996, 110 Stat. 1321-379, required the Secretary of the Treasury, not later than 3 years after Apr. 26, 1996, to report to Congress on collection services provided by Federal agencies or entities collecting debt on behalf of other Federal agencies under the authorities contained in subsec. (g) of this section.

#### STANDARDS AND POLICIES FOR COMPROMISING, WRITING-DOWN, FORGIVING, OR DISCHARGING INDEBTEDNESS

Pub. L. 104-134, title III, §31001(bb), Apr. 26, 1996, 110 Stat. 1321-380, provided that: “The Director of the Office of Management and Budget shall—

“(1) review the standards and policies of each Federal agency for compromising, writing-down, forgiving, or discharging indebtedness arising from programs of the agency;

“(2) determine whether those standards and policies are consistent and protect the interests of the United States;

“(3) in the case of any Federal agency standard or policy that the Director determines is not consistent or does not protect the interests of the United States, direct the head of the agency to make appropriate modifications to the standard or policy; and

“(4) report annually to the Congress on—

“(A) deficiencies in the standards and policies of Federal agencies for compromising, writing-down, forgiving, or discharging indebtedness; and

“(B) progress made in improving those standards and policies.”

#### EXISTING AGENCY AUTHORITY TO LITIGATE, SETTLE, COMPROMISE, OR CLOSE CLAIMS

Pub. L. 89-508, §4, July 19, 1966, 80 Stat. 309, provided that: “Nothing in this Act [now this section] shall increase or diminish the existing authority of the head of an agency to litigate claims, or diminish his existing authority to settle, compromise, or close claims.”

### § 3712. Time limitations for presenting certain claims of the Government

(a) CLAIMS OVER FORGED OR UNAUTHORIZED ENDORSEMENTS.—

(1) PERIOD FOR CLAIMS.—If the Secretary of the Treasury determines that a Treasury check has been paid over a forged or unauthorized endorsement, the Secretary may reclaim the amount of such check from the presenting bank or any other endorser that has breached its guarantee of endorsements prior to—

(A) the end of the 1-year period beginning on the date of payment; or

(B) the expiration of the 180-day period beginning on the close of the period described in subparagraph (A) if a timely claim is received under section 3702.

(2) CIVIL ACTIONS.—(A) Except as provided in subparagraph (B), the United States may bring a civil action to enforce the liability of an endorser, transferor, depository, or fiscal agent

on a forged or unauthorized signature or endorsement on, or a change in, a check or warrant issued by the Secretary of the Treasury, the United States Postal Service, or any disbursing official or agent not later than 1 year after a check or warrant is presented to the drawee for payment.

(B) If the United States has given an endorser written notice of a claim against the endorser within the time allowed by subparagraph (A), the 1-year period for bringing a civil action on that claim under subparagraph (A) shall be extended by 3 years.

(3) EFFECT ON AGENCY AUTHORITY.—Nothing in this subsection shall be construed to limit the authority of any agency under subchapter II of chapter 37 of this title.

(b) Notwithstanding subsection (a) of this section, a civil action may be brought within 2 years after the claim is discovered when an endorser, transferor, depository, or fiscal agent fraudulently conceals the claim from an officer or employee of the Government entitled to bring the civil action.

(c) The Comptroller General shall credit the appropriate account of the Treasury for the amount of a check or warrant for which a civil action cannot be brought because notice was not given within the time required under subsection (a) of this section if the failure to give notice was not the result of negligence of the Secretary.

(d) The Government waives all claims against a person arising from dual pay from the Government if the dual pay is not reported to the Comptroller General for collection within 6 years from the last date of a period of dual pay.

(e) TREASURY CHECK OFFSET.—

(1) IN GENERAL.—To facilitate collection of amounts owed by presenting banks pursuant to subsection (a) or (b), upon the direction of the Secretary, a Federal reserve bank shall withhold credit from banks presenting Treasury checks for ultimate charge to the account of the United States Treasury. By presenting Treasury checks for payment a presenting bank is deemed to authorize this offset.

(2) ATTEMPT TO COLLECT REQUIRED.—Prior to directing offset under subsection (a)(1), the Secretary shall first attempt to collect amounts owed in the manner provided by sections 3711 and 3716.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 971; Pub. L. 100-86, title X, §1004(a), Aug. 10, 1987, 101 Stat. 659; Pub. L. 104-134, title III, §31001(d)(4), Apr. 26, 1996, 110 Stat. 1321-362.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3712(a) .....	31:129.	Mar. 6, 1946, ch. 48, §1, 60 Stat. 31; Aug. 28, 1957, Pub. L. 85-183, §3(b), 71 Stat. 465; Aug. 12, 1970, Pub. L. 91-375, §6(b)(2), 84 Stat. 782.
3712(b) .....	31:131.	Mar. 6, 1946, ch. 48, §§2, 3, 60 Stat. 31.
3712(c) .....	31:130.	
3712(d) .....	31:237a.	Aug. 28, 1954, ch. 1035, 68 Stat. 890.

In the section, the words “Comptroller General” are substituted for “General Accounting Office” for consistency.

In subsection (a), the words “civil action” are substituted for “proceeding in any court”, “court proceeding”, and “proceeding”, and the word “fiscal” is substituted for “financial”, for consistency in the revised title and with other titles of the United States Code. The words “Except as provided in this subsection” are added for clarity. The words “or by an agency or official of the United States” are omitted as surplus. The words “the Postmaster General” are omitted because of section 4(a) of the Postal Reorganization Act (Pub. L. 91-375, 84 Stat. 773). The words “the Treasurer and Assistant Treasurers of the United States” are omitted because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280). The word “official” is substituted for “officers” for consistency in the revised title and with other titles of the Code. The words “of the United States”, “to the Treasurer of the United States or other drawee”, and “of such check, checks, warrant, or warrants” are omitted as surplus. The text of 31:129(last sentence less proviso) is omitted as unnecessary. The last sentence is substituted for 31:129(last sentence proviso) to eliminate unnecessary words.

In subsection (b), the words “at any time” in 31:131 are omitted as surplus. The words “the claim is discovered” are substituted for “the United States or any agency or official of the United States who is entitled to bring the same shall discover that the United States or any agency or official of the United States had such cause of action” to eliminate unnecessary words. The words “who is liable to any of the actions mentioned in sections 129 to 131 of this title” are omitted as surplus. The words “officer or employee of the Government” are substituted for “United States or any agency or official of the United States” before “entitled” for consistency in the revised title and with other titles of the Code. The words “although such action would be otherwise barred by the provisions of sections 129 to 131 of this title” are omitted as surplus.

In subsection (c), the words “of the United States” and “allow . . . in” are omitted as surplus. The word “appropriate” is added for clarity. The word “Treasury” is substituted for “Treasurer of the United States” before “for the amount” because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280). The words “cannot be brought because notice was not given within the time required under this subsection” are substituted for “shall have been barred pursuant to the provisions of sections 129 to 131 of this title upon a showing that the barring of such proceedings . . . required by the provision of section 129 of this title” for clarity. The word “Secretary” is substituted for “Treasurer of the United States” before “in failing” because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974.

In subsection (d), the words “arising from dual pay” are substituted for “arising out of the receipt by such person of compensation . . . in violation of any provision of law prohibiting or restricting the receipt of dual compensation” to eliminate unnecessary words and for consistency in the revised title and with other titles of the Code. The words “including Government owned or controlled corporations” are omitted as unnecessary. The words “or from the government of the District of Columbia” are omitted because of sections 102(a), 448, 449, and 761 of the District of Columbia Self-Government and Governmental Reorganization Act (Pub. L. 93-198, 87 Stat. 777, 801, 836).

#### Editorial Notes

##### AMENDMENTS

1996—Subsec. (e). Pub. L. 104-134 added subsec. (e).

1987—Subsec. (a). Pub. L. 100-86 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Except as provided in this subsection, the

United States Government must bring a civil action to enforce the liability of an endorser, transferor, depository, or fiscal agent on a forged or unauthorized signature or endorsement on, or a change in, a check or warrant issued by the Secretary of the Treasury, the United States Postal Service, or a disbursing official or agent within 6 years after the check or warrant is presented to the drawee of the check or warrant for payment unless, within that period, written notice of the claim is given to the endorser, transferor, depository, or fiscal agent. The period for bringing a civil action or giving notice is extended for 180 days if a claim is received under section 3702(c) of this title.”

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-86 effective 6 months after Aug. 10, 1987, or on such later date as the Secretary of the Treasury may prescribe in regulations, see section 1006 of Pub. L. 100-86, set out as a note under section 3328 of this title.

##### REGULATIONS

For provision permitting Secretary of the Treasury to prescribe rules, regulations, and procedures as necessary to implement amendment by section 1004(a) of Pub. L. 100-86, including recertification of Treasury checks which have been canceled or for which a claim has been asserted or barred, see section 1005 of Pub. L. 100-86, set out as a note under section 3328 of this title.

#### § 3713. Priority of Government claims

(a)(1) A claim of the United States Government shall be paid first when—

(A) a person indebted to the Government is insolvent and—

(i) the debtor without enough property to pay all debts makes a voluntary assignment of property;

(ii) property of the debtor, if absent, is attached; or

(iii) an act of bankruptcy is committed; or

(B) the estate of a deceased debtor, in the custody of the executor or administrator, is not enough to pay all debts of the debtor.

(2) This subsection does not apply to a case under title 11.

(b) A representative of a person or an estate (except a trustee acting under title 11) paying any part of a debt of the person or estate before paying a claim of the Government is liable to the extent of the payment for unpaid claims of the Government.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 972.)

##### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3713(a) .....	31:191.	R.S. §3466; Nov. 6, 1978, Pub. L. 95-598, §322(a), 92 Stat. 2678.
3713(b) .....	31:192.	R.S. §3467; restated May 10, 1934, ch. 277, §518(a), 48 Stat. 760; Nov. 6, 1978, Pub. L. 95-598, §322(b), 92 Stat. 2679.

In the section, the word “claim” is substituted for “debts” for consistency. The word “due” is omitted as unnecessary.

In subsection (a)(1), before clause (A), the word “paid” is substituted for “satisfied” for consistency. In clause (A)(i), the words “and the priority established shall extend as well to cases in which” are omitted because of the restatement. In clause (A)(ii), the word