

## § 831.2501

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### § 831.2501 Purpose.

This subpart contains regulations of the Office of Personnel Management (OPM) to supplement chapter 66, title 42, United States Code, concerning CSRS retirement service credit eligibility for Volunteers in Service to America (VISTA) volunteers.

### § 831.2502 Allowable service.

(a) Service credit deposits are not allowed for training periods prior to actual enrollment.

(b) Service credit deposits can only be made for satisfactory volunteer service.

(c) Annuitants enrolling as VISTA volunteers are not deemed reemployed annuitants. Service as a volunteer or volunteer leader performed after retiring under a CSRS or FERS retirement is not creditable serviced for retirement purposes.

(d) Retirement credit is not allowable for training period(s) prior to actual enrollment.

### § 831.2503 Deposits for service.

(a) An employee or Member subject to CSRS may make a deposit for volunteer service by filing an application in a form prescribed by OPM.

(b) The deposit is based upon the amount of the stipend that was received. If an educational award was elected in lieu of the stipend, then the deposit is based on the amount of the stipend that would have been received.

(c) An application to make a deposit is filed with the appropriate office in the employing agency, or, for Members and Congressional employees, with the Secretary of the Senate, or the Clerk of the House of Representatives, as appropriate.

(d) Upon receipt and review of the application, the agency, Clerk of the House of Representatives, or Secretary of the Senate will submit the application to OPM for processing.

(e) Interest begins to accrue on deposits for volunteer service on October 1, 1995, or 2 years after the date on which the individual first becomes an employee or Member, whichever is later.

(f) After becoming federally employed, there is a 2-year interest-free grace period on VISTA volunteer serv-

ice deposits. After the 2-year period, interest is accrued and compounded annually at the variable rate beginning on the date of the expiration of the 2-year period.

(g) A deposit is required in order to obtain service credit for VISTA volunteer service for which the volunteer chose to receive an educational award in lieu of a stipend. The deposit is based upon the amount of the stipend that would have been received if he/she had elected to receive the stipend rather than an educational award.

### § 831.2504 Additional interest due to administrative error.

(a) The employing agency, Clerk of the House of Representatives, or Secretary of the Senate, as appropriate, may pay any additional interest due on the deposit for volunteer or volunteer leader service as a result of its administrative error. OPM may pay any additional interest due on the deposit for VISTA service as a result of its administrative error.

(b) The employing agency, Clerk of the House of Representatives, or Secretary of the Senate, as appropriate, shall set their own procedures for employees or Members to claim there was administrative error. OPM shall set its own procedures for claims of administrative error on its part.

(c) The employing agency, Clerk of the House of Representatives, or Secretary of the Senate, as appropriate, shall determine if administrative error on its part caused an increase in interest due on the deposit amount for their employees. OPM shall determine if administrative error on its part caused an increase in interest due on the deposit amount.

(d) OPM's final determination regarding a claim of administrative error on its part is not subject to the due process procedures described in 5 U.S.C. 8461(e).

## PART 835—DEBT COLLECTION

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AUTHORITY: 5 U.S.C. 8347(a) and 8461(g). Subpart F also issued under 31 U.S.C. 3720A.

SOURCE: 57 FR 61771, Dec. 29, 1992, unless otherwise noted.

### Subparts A–E [Reserved]

### Subpart F—Collection of Debts by Federal Tax Refund Offset

#### § 835.601 Purpose.

This subpart establishes procedures for OPM to refer past-due legally enforceable debts to the Internal Revenue Service (IRS) for offset against the income tax refunds of persons owing debts to OPM. It specifies the agency procedures and the rights of the debtor applicable to claims referred under the Federal Tax Refund Offset Program for the collection of debts owed to OPM.

#### § 835.602 Past-due legally enforceable debt.

A past-due legally enforceable debt for referral to the IRS is a debt that—

- (a) Resulted from—
  - (1) Erroneous payments made under the Civil Service Retirement or the Federal Employees' Retirement Systems; or
  - (2) Unpaid health or life insurance premiums due under the Federal Employees' Health Benefits or Federal Employees' Group Life Insurance Programs; or
  - (3) Any other statute administered by OPM;
- (b) Is an obligation of a debtor who is a natural person;
- (c) Except in the case of a judgment debt, has been delinquent at least 3 months but not more than 10 years at the time the offset is made;
- (d) Is at least \$25.00;
- (e) With respect to which the individual's rights described in 5 CFR 831.1301 through 831.1309 have been exhausted;
- (f) With respect to which either:

(1) OPM's records do not contain evidence that the person owing the debt (or his or her spouse) has filed for bankruptcy under title 11 of the United States Code; or

(2) OPM can clearly establish at the time of the referral that the automatic stay under 11 U.S.C. 362 has been lifted or is no longer in effect with respect to the person owing the debt or his or her spouse, and the debt was not discharged in the bankruptcy proceeding;

(g) Cannot currently be collected under the salary offset provisions of 5 U.S.C. 5514(a)(1);

(h) Is not eligible for administrative offset under 31 U.S.C. 3716(a) because of 31 U.S.C. 3716(c)(2), or cannot currently be collected as an administrative offset by OPM under 31 U.S.C. 3716(a) against amounts payable to the debtor by OPM; and

(i) Has been disclosed by OPM to a consumer reporting agency as authorized by 31 U.S.C. 3711(f), unless the consumer reporting agency would be prohibited from reporting information concerning the debt by reason of 15 U.S.C. 1681c, or unless the amount of the debt does not exceed \$100.

#### § 835.603 Notification of intent to collect.

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

(b) *Contents of notice.* OPM's notice of intention to collect by IRS tax refund offset (Notice of Intent) will state:

- (1) The amount of the debt;
- (2) That unless the debt is repaid within 60 days from the date of OPM's Notice of Intent, OPM intends to collect the debt by requesting the IRS to reduce any amounts payable to the debtor as a Federal income tax refund by an amount equal to the amount of the debt and all accumulated interest and other charges;
- (3) A mailing address for forwarding any written correspondence and a contract name and a telephone number for any questions; and

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(4) That the debtor may present evidence to OPM that all or part of the debt is not past due or legally enforceable by—

(i) Sending a written request for a review of the evidence to the address provided in the notice;

(ii) Stating in the request the amount disputed and the reasons why the debtor believes that the debt is not past-due or is not legally enforceable;

(iii) Including in the request any documents that the debtor wishes to be considered or stating that the additional information will be submitted within the remainder of the 60-day period.

### § 835.604 Reasonable attempt to notify.

In order to constitute a reasonable attempt to notify the debtor, OPM must have used a mailing address for the debtor obtained from the IRS pursuant to 26 U.S.C. 6103(m)(2) within a period of 1 year preceding the attempt to notify the debtor, unless OPM received clear and concise notification from the debtor that notices from the agency are to be sent to an address different from the address obtained from IRS. Clear and concise notice means that the debtor has provided the agency with written notification, including the debtor's name and identifying number (as defined in 26 CFR 301.6109-1), and the debtor's intent to have the agency notices sent to the new address.

### § 835.605 OPM action as a result of consideration of evidence submitted as a result of the notice of intent.

(a) *Consideration of evidence.* If, as a result of the Notice of Intent, OPM receives notice that the debtor will submit additional evidence or receives additional evidence from the debtor within the prescribed time period, any notice to the IRS will be stayed until OPM can—

(1) Consider the evidence presented by the debtor; and

(2) Determine whether or not all or a portion of the debt is still past due and legally enforceable; and

(3) Notify the debtor of its determination.

(b) *Notification to the debtor.* Following review of the evidence, OPM

will issue a written decision notifying the debtor whether OPM has sustained, amended, or canceled its determination that the debt is past-due and legally enforceable. The notice will advise the debtor of any further action to be taken and explain the supporting rationale for the decision.

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

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

### § 835.606 Change in notification to Internal Revenue Service.

(a) Except as noted in paragraph (b) of this section, after OPM sends IRS notification of an individual's liability for a debt, OPM will promptly notify IRS of any change in the notification, if OPM—

(1) Determines that an error has been made with respect to the information contained in the notification;

(2) Receives a payment or credits a payment to the account of the debtor named in the notification that reduces the amount of the debt referred to the IRS for offset; or

(3) Receives notification that the individual owing the debt has filed for bankruptcy under title 11 of the United States Code or has been adjudicated bankrupt and the debt has been discharged.

(b) OPM will not notify the IRS to increase the amount of a debt owed by a debtor named in OPM's original notification to the IRS.

(c) If the amount of a debt is reduced after referral by OPM and offset by the IRS, OPM will refund to the debtor any excess amount and will promptly notify the IRS of any refund made by OPM.

### § 835.607 Administrative charges.

All administrative charges incurred in connection with the referral of the

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debts to the IRS will be assessed on the debt and thus increase the amount of the offset.

**PART 837—REEMPLOYMENT OF ANNUITANTS**

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AUTHORITY: 5 U.S.C. 8337, 8344, 8347, 8455, 8456, 8461, and 8468; and section 302 of Pub. L. 99-335, June 6, 1986, as amended.

SOURCE: 58 FR 48266, Sept. 15, 1993, unless otherwise noted.

**Subpart A—General Provisions**

**§ 837.101 Applicability.**

(a) This part prescribes rules governing—

(1) Reemployment of an annuitant by the Federal Government;

(2) Reemployment of an annuitant by the government of the District of Columbia when the annuitant—

(i) Had been employed subject to CSRS by the District of Columbia prior to October 1, 1987;

(ii) Is an employee of the government of the District of Columbia not excluded from CSRS under § 831.201(g) or § 831.201(i); or

(iii) Is an employee of the District of Columbia who is deemed to be a Federal employee for FERS purposes under § 842.107 or § 842.108 of this chapter; and

(3) The payment of retirement and death benefits based on reemployment covered by this part.

(b) This part is not applicable to reemployment, in the Executive Branch, under 5 U.S.C. 8344(i) or 8468(f) (see part 553 of this chapter), relating to reemployment of retirees to meet exceptional employment needs, or to employment under 5 U.S.C. 8344 (j) or (k) or 5 U.S.C. 8468 (g) or (h) in the Judicial or Legislative Branches.

[58 FR 48266, Sept. 15, 1993, as amended at 62 FR 50996, Sept. 30, 1997; 64 FR 15288, Mar. 31, 1999]