

Section 205 of the Employee Retirement Income Security Act of 1974, referred to in subsec. (b)(2), is classified to section 1055 of Title 29, Labor.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 180 days after Nov. 29, 1990, and applicable with respect to certain actions for debts owed the United States pending in court on that effective date, see section 3631 of Pub. L. 101-647, set out as a note under section 3001 of this title.

§ 3011. Assessment of surcharge on a debt

(a) **SURCHARGE AUTHORIZED.**—In an action or proceeding under subchapter B or C, and subject to subsection (b), the United States is entitled to recover a surcharge of 10 percent of the amount of the debt in connection with the recovery of the debt, to cover the cost of processing and handling the litigation and enforcement under this chapter of the claim for such debt.

(b) **LIMITATION.**—Subsection (a) shall not apply if—

(1) the United States receives an attorney's fee in connection with the enforcement of the claim; or

(2) the law pursuant to which the action on the claim is based provides any other amount to cover such costs.

(Added Pub. L. 101-647, title XXXVI, §3611, Nov. 29, 1990, 104 Stat. 4937.)

Statutory Notes and Related Subsidiaries

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§ 3012. Joinder of additional defendant

The United States or the debtor may join as an additional defendant in an action or proceeding under this chapter any person reasonably believed to owe money (including money owed on account of a requirement to provide goods or services pursuant to a loan or loan guarantee extended under Federal law) to the debtor arising out of the transaction or occurrence giving rise to a debt.

(Added Pub. L. 101-647, title XXXVI, §3611, Nov. 29, 1990, 104 Stat. 4938.)

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§ 3013. Modification or protective order; supervision of enforcement

The court may at any time on its own initiative or the motion of any interested person, and after such notice as it may require, make an order denying, limiting, conditioning, regu-

lating, extending, or modifying the use of any enforcement procedure under this chapter.

(Added Pub. L. 101-647, title XXXVI, §3611, Nov. 29, 1990, 104 Stat. 4938.)

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§ 3014. Exempt property

(a) **ELECTION TO EXEMPT PROPERTY.**—An individual debtor may, in an action or proceeding under this chapter, elect to exempt property listed in either paragraph (1) or, in the alternative, paragraph (2). If such action or proceeding is against debtors who are husband and wife, one debtor may not elect to exempt property listed in paragraph (1) and the other debtor elect to exempt property listed in paragraph (2). If the debtors cannot agree on the alternative to be elected, they shall be deemed to elect paragraph (1). Such property is either—

(1) property that is specified in section 522(d) of title 11, as amended from time to time; or

(2)(A) any property that is exempt under Federal law, other than paragraph (1), or State or local law that is applicable on the date of the filing of the application for a remedy under this chapter at the place in which the debtor's domicile has been located for the 180 days immediately preceding the date of the filing of such application, or for a longer portion of such 180-day period than in any other place; and

(B) any interest in property in which the debtor had, immediately before the filing of such application, an interest as a tenant by the entirety or joint tenant, or an interest in a community estate, to the extent that such interest is exempt from process under applicable nonbankruptcy law.

(b) **EFFECT ON ASSERTION AND MANNER OF DETERMINATION.**—

(1) **STATEMENT.**—A court may order the debtor to file a statement with regard to any claimed exemption. A copy of such statement shall be served on counsel for the United States. Such statement shall be under oath and shall describe each item of property for which exemption is claimed, the value and the basis for such valuation, and the nature of the debtor's ownership interest.

(2) **HEARING.**—The United States or the debtor, by application to the court in which an action or proceeding under this chapter is pending, may request a hearing on the applicability of any exemption claimed by the debtor. The court shall determine the extent (if any) to which the exemption applies. Unless it is reasonably evident that the exemption applies, the debtor shall bear the burden of persuasion.

(3) **STAY OF DISPOSITION.**—Assertion of an exemption shall prevent the United States from selling or otherwise disposing of the property