

Statutory Notes and Related Subsidiaries

REGULATIONS

Pub. L. 98-369, div. B, title VI, § 2652(a)(3), July 18, 1984, 98 Stat. 1152, provided that: “The Secretary of the Treasury shall prescribe regulations, including regulations under section 3720 of title 31, United States Code, designed to achieve by October 1, 1986, full implementation of the purposes of this subsection.”

§ 3720A. Reduction of tax refund by amount of debt

(a) Any Federal agency that is owed by a person a past-due, legally enforceable debt (including debt administered by a third party acting as an agent for the Federal Government) shall, and any agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), owed such a debt may, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once each year of the amount of such debt.

(b) No Federal agency may take action pursuant to subsection (a) with respect to any debt until such agency—

(1) notifies the person incurring such debt that such agency proposes to take action pursuant to such paragraph with respect to such debt;

(2) gives such person at least 60 days to present evidence that all or part of such debt is not past-due or not legally enforceable;

(3) considers any evidence presented by such person and determines that an amount of such debt is past due and legally enforceable;

(4) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under paragraph (3) with respect to such debt is valid and that the agency has made reasonable efforts (determined on a government-wide basis) to obtain payment of such debt; and

(5) certifies that reasonable efforts have been made by the agency (pursuant to regulations) to obtain payment of such debt.

(c) Upon receiving notice from any Federal agency that a named person owes to such agency a past-due legally enforceable debt, the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to such person. If the Secretary of the Treasury finds that any such amount is payable, he shall reduce such refunds by an amount equal to the amount of such debt, pay the amount of such reduction to such agency, and notify such agency of the individual's home address.

(d) The Secretary of the Treasury shall issue regulations prescribing the time or times at which agencies must submit notices of past-due legally enforceable debts, the manner in which such notices must be submitted, and the necessary information that must be contained in or accompany the notices. The regulations shall specify the minimum amount of debt to which the reduction procedure established by subsection (c) may be applied and the fee that an agency must pay to reimburse the Secretary of the Treasury for the full cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence may be used to re-

imburse appropriations which bore all or part of the cost of applying such procedure.

(e) Any Federal agency receiving notice from the Secretary of the Treasury that an erroneous payment has been made to such agency under subsection (c) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such agency under such subsection have been paid to such agency).

(f)(1) Subsection (a) shall apply with respect to an OASDI overpayment made to any individual only if such individual is not currently entitled to monthly insurance benefits under title II of the Social Security Act.

(2)(A) The requirements of subsection (b) shall not be treated as met in the case of the recovery of an OASDI overpayment from any individual under this section unless the notification under subsection (b)(1) describes the conditions under which the Commissioner of Social Security is required to waive recovery of an overpayment, as provided under section 204(b) of the Social Security Act.

(B) In any case in which an individual files for a waiver under section 204(b) of the Social Security Act within the 60-day period referred to in subsection (b)(2), the Commissioner of Social Security shall not certify to the Secretary of the Treasury that the debt is valid under subsection (b)(4) before rendering a decision on the waiver request under such section 204(b). In lieu of payment, pursuant to subsection (c), to the Commissioner of Social Security of the amount of any reduction under this subsection based on an OASDI overpayment, the Secretary of the Treasury shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary of the Treasury as appropriate by the Commissioner of Social Security.

(g) In the case of refunds of business associations, this section shall apply only to refunds payable on or after January 1, 1995. In the case of refunds of individuals who owe debts to Federal agencies that have not participated in the Federal tax refund offset program prior to the date of enactment of this subsection, this section shall apply only to refunds payable on or after January 1, 1994.

(h)(1)¹ The disbursing official of the Department of the Treasury—

(1)¹ shall notify a taxpayer in writing of—

(A) the occurrence of an offset to satisfy a past-due legally enforceable nontax debt;

(B) the identity of the creditor agency requesting the offset; and

(C) a contact point within the creditor agency that will handle concerns regarding the offset;

(2)¹ shall notify the Internal Revenue Service on a weekly basis of—

(A) the occurrence of an offset to satisfy a past-due legally enforceable non-tax² debt;

¹ So in original. Subsec. (h) contains two pars. designated (1) and (2).

² So in original. Probably should not be hyphenated.

(B) the amount of such offset; and
(C) any other information required by regulations; and

(3) shall match payment records with requests for offset by using a name control, taxpayer identifying number (as that term is used in section 6109 of the Internal Revenue Code of 1986), and any other necessary identifiers.

(h)(2)¹ The term “disbursing official” of the Department of the Treasury means the Secretary or his designee.

(i) An agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), may implement this section at its discretion.

(Added Pub. L. 98-369, div. B, title VI, §2653(a)(1), July 18, 1984, 98 Stat. 1153; amended Pub. L. 101-508, title V, §5129(b), Nov. 5, 1990, 104 Stat. 1388-287; Pub. L. 102-589, §3, Nov. 10, 1992, 106 Stat. 5133; Pub. L. 103-296, title I, §108(j)(2), Aug. 15, 1994, 108 Stat. 1488; Pub. L. 104-134, title III, §31001(u)(1), (v)(1), (w), Apr. 26, 1996, 110 Stat. 1321-375.)

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (f)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title II of the Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Section 204 of the Act is classified to section 404 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The date of enactment of this subsection, referred to in subsec. (g), is the date of enactment of Pub. L. 102-589, which was approved Nov. 10, 1992.

Section 6109 of the Internal Revenue Code of 1986, referred to in subsec. (h)(3), is classified to section 6109 of Title 26, Internal Revenue Code.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-134, §31001(v)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support), including debt administered by a third party acting as an agent for the Federal Government, by a named person shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of all such debt.”

Subsec. (h). Pub. L. 104-134, §31001(w), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: “For purposes of this section—

“(1) the term ‘Federal agency’ means a department, agency, or instrumentality of the United States (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)), and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code);

“(2) the term ‘past-due support’ means any delinquency subject to section 464 of the Social Security Act;

“(3) the term ‘OASDI overpayment’ means any overpayment of benefits made to an individual under title II of the Social Security Act; and

“(4) the term ‘person’ means an individual; or a sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association.”

Subsec. (i). Pub. L. 104-134, §31001(u)(1), added subsec. (i).

1994—Subsec. (f)(2). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary of Health and Human Services” wherever appearing.

1992—Subsec. (a). Pub. L. 102-589, §3(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support) by a named person shall, in accordance with regulations issued pursuant to subsection (d), notify the Secretary of the Treasury of the amount of such debt.”

Subsec. (b)(3) to (5). Pub. L. 102-589, §3(2), struck out “and” at end of par. (3), substituted “(determined on a government-wide basis) to obtain payment of such debt; and” for “to obtain payment of such debt.” in par. (4), and added par. (5).

Subsec. (g). Pub. L. 102-589, §3(5), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 102-589, §3(3), (4), redesignated subsec. (g) as (h) and added par. (4).

1990—Subsec. (a). Pub. L. 101-508, §5129(b)(1), struck out “OASDI overpayment and” after “other than any”.

Subsecs. (f), (g). Pub. L. 101-508, §5129(b)(2), (3), added subsec. (f) and redesignated former subsec. (f) as (g).

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EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-589 effective as if enacted on Sept. 30, 1992, see section 7 of Pub. L. 102-589, set out as a note under section 3718 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective Jan. 1, 1991, and inapplicable to refunds to which amendments by section 2653 of the Deficit Reduction Act of 1984, Pub. L. 98-369, do not apply, see section 5129(d) of Pub. L. 101-508, set out as a note under section 6402 of Title 26, Internal Revenue Code.

EFFECTIVE DATE

Section applicable with respect to refunds payable under section 6402 of Title 26, Internal Revenue Code, after Dec. 31, 1985, see section 2653(c) of Pub. L. 98-369, as amended, set out as an Effective Date of 1984 Amendment note under section 6402 of Title 26.

CLARIFICATION OF CONGRESSIONAL INTENT AS TO SCOPE OF AMENDMENTS BY SECTION 2653 OF PUB. L. 98-369

For provisions that nothing in amendments by section 2653 of Pub. L. 98-369, enacting this section, be construed as exempting debts of corporations or any other category of persons from application of such amendments, with such amendments to extend to all Federal agencies (as defined in such amendments), see section 9402(b) of Pub. L. 100-203, set out as a note under section 6402 of Title 26, Internal Revenue Code.

§ 3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan insurance guarantees

(a) Unless this subsection is waived by the head of a Federal agency, a person may not obtain any Federal financial assistance in the form of a loan (other than a disaster loan or a marketing assistance loan or loan deficiency payment under subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.)) or loan insurance or guarantee administered by the agency if the person has an outstanding debt (other than a debt under the Internal Revenue Code of 1986) with any Federal agency which is in a delinquent status, as determined under