

5 U.S.C. 552 and published as part 1 of title 31 of the Code of Federal Regulations, except as provided in these regulations.

§270.2 Materials available for inspection and copying.

(a) *Materials available.* The materials in the Financial Management Service which are required by 5 U.S.C. 552(a)(2) to be made available for public inspection and copying are the following:

(1) Final opinions, as well as orders, made in the adjudication of cases. These will include final dispositions of claims on Government checks which are of a precedential nature. Generally, however, the Financial Management Service does not issue orders in the adjudication of cases.

(2) Statements of policy and interpretations which have been adopted by the Service and are not published in the FEDERAL REGISTER.

(3) Administrative staff manuals and instructions to staff that affect a member of the public. These materials include sections of the Treasury Financial Manual and such Department Circulars applicable to Financial Management Service operations, that have been determined by the agency to affect a member of the public, and have not been incorporated into that manual or published as parts of title 31 of the Code of Federal Regulations.

(4) Current indices for the foregoing materials.

(b) *Location.* The materials listed in paragraph (a) of this section issued on or after the effective date of these regulations are available for inspection and copying during office hours in the public reading room of the Treasury Department, 15th Street and Pennsylvania Avenue, NW., Washington, DC 20220. Materials issued prior thereto are available in the public reading room to the extent feasible. If not so available, they may be requested as identifiable records.

§270.3 Requests for identifiable records.

(a) *Procedure.* A written request for an identifiable record shall be addressed to: Freedom of Information Disclosure Officer, Financial Manage-

ment Service, 401 14th Street, SW., Washington, DC 20227.

(b) *Determination of request.* Determination as to the disclosure of a record request shall be made, subject to appeal to the Commissioner of the Financial Management Service, by the head of the division in which the record belongs and by the Disclosure Officer of the agency. The decision of the Commissioner shall constitute final agency action, unless the Commissioner refers the appeal to the Fiscal Assistant Secretary, in which case the decision of the Fiscal Assistant Secretary shall constitute final agency action.

§270.4 Fees for services.

Fees for services performed by the Financial Management Service will be imposed and collected as set forth in part 1 of title 31 of the Code of Federal Regulations.

PART 281—FOREIGN EXCHANGE OPERATIONS

Sec.

281.1 Authority.

281.2 [Reserved]

281.3 Collections.

281.4 Guaranty funds.

281.5 Depositaries.

281.6 Withdrawals from Treasury accounts.

281.7 Limitations.

281.8 Reporting and accounting.

281.9 General provisions.

AUTHORITY: Sec. 114, 64 Stat. 836, sec. 613, 75 Stat. 443; 31 U.S.C. 66b, 22 U.S.C. 2363, E.O. 10488, 18 FR 5699, 3 CFR, 1949-1953 Comp., p. 972, E.O. 10900, 26 FR 143, 3 CFR, 1959-1963 Comp., p. 429.

SOURCE: 26 FR 10054, Oct. 26, 1961, unless otherwise noted.

§281.1 Authority.

By virtue of the authority vested in the Secretary of the Treasury by section 114 of the Budget and Accounting Procedures Act of 1950, 64 Stat. 836, 31 U.S.C. 66b; section 613 of the Act of September 4, 1961, 75 Stat. 443; Executive Order No. 10488, 18 FR 5699, 3 CFR 1949-1953 Comp.; and Executive Order No. 10900, 26 FR 143, the following regulations are prescribed for administration of the purchase custody, deposit, transfer, sale and reporting of foreign exchange (including credits and currencies) by executive departments and

§ 281.3

agencies (hereinafter referred to as agencies).

§ 281.2 [Reserved]

§ 281.3 Collections.

Foreign exchange collected by agencies shall be delivered promptly into the custody of accountable officers for credit to accounts of the Secretary of the Treasury (hereinafter referred to as the Secretary) unless otherwise directed by the Secretary. The term "collections," for the purpose of these regulations in this part, does not include foreign exchange acquired by the United States by purchase with dollars. The accountable officer shall maintain records, showing the collections, by source, and indicating the miscellaneous receipt accounts or other accounts in the Treasury to be credited with dollar proceeds from sale of the foreign exchange, and such further classifications as may be needed to indicate exchange which can be used only for restricted purposes. Accountable officers shall be advised by the collecting agencies of the source of collections and any restrictions on the use of the foreign exchange in order that the foregoing records may be maintained.

§ 281.4 Guaranty funds.

The regulations in this part are applicable to all foreign exchange acquired by the United States under guaranty provisions of section 1011 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1442), except that receipts of such foreign exchange shall be deposited in the foreign exchange accounts of the United States Treasury referred to in § 281.5(c).

§ 281.5 Depositaries.

(a) Except as provided in paragraph (b) of this section, foreign exchange which is held by accountable officers for account of the Secretary and foreign exchange acquired by accountable officers by purchase or otherwise, which is not immediately disbursed but is held by such officers for their own account or for the account of any agency, shall be maintained only in depositaries designated by the Secretary. Unless otherwise directed by the Sec-

31 CFR Ch. II (7-1-97 Edition)

retary, accountable officers are not required to have separate depositary accounts for foreign exchange held for the Secretary's account.

(b) Accountable officers may carry foreign exchange as cash outside depositaries only pursuant to authority granted in accordance with Treasury Department Circular No. 1030 dated July 24, 1959, as amended.

(c) Deposits in and withdrawals from foreign exchange accounts maintained with depositaries in the name of the United States Treasury will be made only as directed by the Secretary.

§ 281.6 Withdrawals from Treasury accounts.

Foreign exchange shall be withdrawn from accounts of the Secretary on the books of accountable officers or from the foreign exchange accounts carried with depositaries in the name of the United States Treasury, only for the purpose of sale for dollars or transfer to agencies for authorized purposes, without reimbursement to the Treasury, as provided by or pursuant to law. Such transfers, as well as transfers between foreign exchange accounts of the Secretary and between foreign exchange accounts in the name of the United States Treasury, shall be made only by direction of the Secretary. An agency requiring foreign exchange from the Treasury Department shall make request of the Secretary, indicating the amount of exchange required, in units of foreign currency, and the name and location of the accountable officer to receive the exchange. To the extent practicable and desirable, standing authorizations will be given for withdrawals from accounts of the Secretary. The following conditions apply to the sale of foreign exchange and to the requisition of foreign exchange without dollar payment:

(a) *Sales.* With respect to the sale of foreign exchange held in accounts of the Secretary, the payment in dollars shall be calculated at the rate of exchange that would otherwise be available to the United States for the acquisition of the foreign exchange for its official disbursements unless otherwise determined by the Treasury Department in consultation with the agencies concerned. When the rate that would

otherwise be available to the United States is not readily ascertainable, the Treasury Department shall be consulted. The dollar proceeds realized from the sale of exchange shall be credited to the appropriate receipt, appropriation or refund account on the books of the Treasury. The dollar payment for foreign exchange purchased shall not be charged as an appropriation expenditure until the foreign exchange is disbursed.

(b) *Transfers without reimbursement.* When foreign exchange is to be obtained from the Treasury Department without payment of dollars, the agency concerned shall furnish written certification that the exchange may be used without reimbursement to the Treasury, citing the relevant legal authority. In cases where international agreements or Bureau of the Budget allocations specify the programs for which foreign exchange may be used, the Secretary may transfer exchange to agencies without requiring a certification.

[26 FR 10054, Oct. 26, 1961, as amended at 29 FR 11497, Aug. 11, 1964]

§ 281.7 Limitations.

The following limitations apply to the purchase and holding of foreign exchange:

(a) Unless otherwise authorized by the Secretary, no agency or accountable officer shall purchase, or direct the purchase of, foreign exchange from any source outside the Government of the United States, except when exchange for the purpose intended is not available for purchase from within the Government.

(b) All foreign exchange acquired by agencies by transfer from the Treasury Department, without payment of dollars, for the purpose of making authorized expenditures, shall be placed with accountable officers for account of the agencies concerned.

(c) Unless otherwise authorized by the Secretary, no accountable officer shall purchase foreign exchange which, together with the balance on hand at the time of purchase, would exceed estimated requirements for a thirty-day period.

(d) To the maximum extent possible, foreign exchange accounts which are earmarked for specific programs shall

be maintained on an unfunded basis. Each agency responsible for administering international agreements pertaining to the use of foreign exchange held in funded accounts shall review the agreement and other considerations relevant to each such account at least annually to determine if the account can be placed on an unfunded basis, and shall initiate appropriate action to accomplish the objective of minimizing the number of funded program accounts and the amounts therein. The resulting determinations and the status of actions undertaken shall be furnished in writing to the Treasury Department within 60 days from the date of this regulation and each time thereafter that there is a change of status of a particular account, or as requested by the Treasury Department. Exchange which becomes eligible for removal from a funded status either as a result of the foregoing determinations, or because of the expiration of the period of availability for restricted use under the terms of international agreements, or for other reasons, shall be released promptly by the program agency for transfer to a nonrestricted Treasury sales account.

[26 FR 10054, Oct. 26, 1961, as amended at 29 FR 11497, Aug. 11, 1964]

§ 281.8 Reporting and accounting.

The Treasury Department will maintain a system of central accounting and reporting for the purpose of providing information on foreign exchange operations to the President, the Congress, and the public. The Treasury Department will also prescribe rules to enhance consistency in reporting of foreign exchange operations by all agencies. Agencies shall furnish such reports and information as may be required for the administration of the provisions of this circular.

§ 281.9 General provisions.

(a) Nothing contained in this part shall be construed as having the effect of superseding or amending the provisions of any regulations issued or approved by the Secretary pursuant to the Act of December 23, 1944, as amended (67 Stat. 61).

(b) The Secretary may waive, withdraw, or amend at any time or from

time to time any or all of the provisions of the regulations of this part.

(c) Implementing regulations within the framework of this circular will be issued by the Fiscal Assistant Secretary of the Treasury. All communications pertaining to the administration of the provisions of this part shall be directed to the Fiscal Assistant Secretary.

PART 285—DEBT COLLECTION AUTHORITIES UNDER THE DEBT COLLECTION IMPROVEMENT ACT OF 1996

Subpart A—Disbursing Official Offset

Sec.

285.1 [Reserved]

285.2 Offset of tax refund payments to collect past-due, legally enforceable nontax debt.

Subpart B [Reserved]

AUTHORITY: 26 U.S.C. 6402; 31 U.S.C. 321, 3720A.

SOURCE: 62 FR 34179, June 25, 1997, unless otherwise noted.

EFFECTIVE DATE NOTE: At 62 FR 34179, June 25, 1997, part 285 was added, effective July 25, 1997.

Subpart A—Disbursing Official Offset

§ 285.1 [Reserved]

§ 285.2 Offset of tax refund payments to collect past-due, legally enforceable nontax debt.

(a) *Definitions.* For purposes of this section:

Creditor agency means a Federal agency owed a claim that seeks to collect that claim through tax refund offset.

Debt or *claim* refers to an amount of money, funds, or property which has been determined by an agency official to be due the United States from any person, organization, or entity, except another Federal agency. For the purposes of this section, the terms “claim” and “debt” are synonymous and interchangeable and includes debt administered by a third party acting as an agent for the Federal Government.

Debtor means a person who owes a debt or claim. The term “person” in-

cludes any individual, organization or entity, except another Federal agency.

FMS means the Financial Management Service, a bureau of the Department of the Treasury.

IRS means the Internal Revenue Service, a bureau of the Department of the Treasury.

Tax refund offset means withholding or reducing a tax refund payment by an amount necessary to satisfy a debt owed by the payee(s) of a tax refund payment.

Tax refund payment means any overpayment of Federal taxes to be refunded to the person making the overpayment after the IRS makes the appropriate credits as provided in 26 U.S.C. 6402(a) and 26 CFR 6402-3(a)(6)(i) for any liabilities for any tax on the part of the person who made the overpayment.

(b) *General rule.* (1) A Federal agency (as defined in 26 U.S.C. 6402(g)) that is owed by a person a past-due, legally enforceable nontax debt shall notify FMS of the amount of such debt for collection by tax refund offset. However, any agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h) owed such a debt may, but is not required to, notify FMS of the amount of such debt for collection by tax refund offset.

(2) FMS will compare tax refund payment records, as certified by the IRS, with records of debts submitted to FMS. A match will occur when the taxpayer identifying number (as that term is used in 26 U.S.C. 6109) and name (or derivation of the name, known as a “name control”) of a payment certification record are the same as the taxpayer identifying number and name control of a debtor record. When a match occurs and all other requirements for tax refund offset have been met, FMS will reduce the amount of any tax refund payment payable to a debtor by the amount of any past-due, legally enforceable debt owed by the debtor. Any amounts not offset will be paid to the payee(s) listed in the payment certification record.

(3) This section does not apply to any debt or claim arising under the Internal Revenue Code.