

records and the coordination of pay matters with the appropriate personnel office with respect to an employee. Payroll office, with respect to the Department of the Treasury means the payroll offices of each bureau and the Office of the Assistant Secretary of the Treasury for Management for the Departmental Offices.

(o) *Salary offset* means an administrative offset to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee, without his or her consent.

(p) *Secretary* means the Secretary of the Treasury or his or her designee.

(q) *Waiver* means the cancellation, remission, forgiveness, or non-recovery of a debt allegedly owed by an employee to the Department or another agency as permitted or required by 5 U.S.C. 5584 or 8346(b), 10 U.S.C. 2774, 32 U.S.C. 716, or any other law.

#### § 5.9 Applicability of regulations.

These regulations are to be followed in instances where:

(a) The Department is owed a debt by an individual currently employed by another agency;

(b) Where the Department is owed a debt by an individual who is a current employee of the Department; or

(c) Where the Department currently employs an individual who owes a debt to another Federal Agency. Upon receipt of proper certification from the creditor agency, the Department will offset the debtor-employee's salary in accordance with these regulations.

#### § 5.10 Waiver requests and claims to the General Accounting Office.

These regulations do not preclude an employee from requesting waiver of an overpayment under 5 U.S.C. 5584 or 8346(b), 10 U.S.C. 2774, 32 U.S.C. 716, or in any way questioning the amount or validity of a debt by submitting a subsequent claim to the General Accounting Office in accordance with the procedures prescribed by the General Accounting Office. These regulations also do not preclude an employee from requesting a waiver pursuant to other statutory provisions pertaining to the particular debts being collected.

#### § 5.11 Notice requirements before offset.

(a) Deductions under the authority of 5 U.S.C. 5514 shall not be made unless the creditor agency provides the employee with written notice that he/she owes a debt to the Federal Government, a minimum of 30 calendar days before salary offset is initiated. When Treasury is the creditor agency this notice of intent to offset an employee's salary shall be hand-delivered or sent by certified mail to the most current address that is available to the Department and will state:

(1) That the Secretary has reviewed the records relating to the claim and has determined that a debt is owed, the amount of the debt, and the facts giving rise to the debt;

(2) The Secretary's intention to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest is paid in full;

(3) The amount, frequency, approximate beginning date, and duration of the intended deductions;

(4) An explanation of the Department's policy concerning interest, penalties and administrative costs including a statement that such assessments must be made unless excused in accordance with the Federal Claims Collection Standards, 4 CFR 101.1 *et seq.*;

(5) The employee's right to inspect and copy all records of the Department pertaining to the debt claimed or to receive copies of such records if personal inspection is impractical;

(6) The right to a hearing conducted by an impartial hearing official (an administrative law judge, or alternatively, a hearing official not under the supervision or control of the Secretary) with respect to the existence and amount of the debt claimed, or the repayment schedule (*i.e.*, the percentage of disposable pay to be deducted each pay period), so long as a petition is filed by the employee as prescribed in § 5.12;

(7) If not previously provided, the opportunity (under terms agreeable to the Department) to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for repayment of the debt in lieu of offset. The

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agreement must be in writing, signed by both the employee and the creditor agency (4 CFR 102.2(e));

(8) The name, address and phone number of an officer or employee of the Department who may be contacted concerning procedures for requesting a hearing;

(9) The method and time period for requesting a hearing;

(10) That the timely filing of a petition for a hearing on or before the fifteenth calendar day following receipt of such notice of intent will stay the commencement of collection proceedings;

(11) The name and address of the office to which the petition should be sent;

(12) That the Department will initiate certification procedures to implement a salary offset, as appropriate, (which may not exceed 15 percent of the employee's disposable pay) not less than thirty (30) days from the date of receipt of the notice of debt, unless the employee files a timely petition for a hearing;

(13) That a final decision on the hearing (if one is requested) will be issued at the earliest practical date, but not later than sixty (60) days after the filing of the petition requesting the hearing, unless the employee requests and the hearing official grants a delay in the proceedings;

(14) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(i) Disciplinary procedures appropriate under Chapter 75 of Title 5, United States Code, part 752 of title 5, *Code of Federal Regulations*, or any other applicable statute or regulations;

(ii) Penalties under the False Claims Act, sections 3729-3731 of Title 31, United States Code or any other applicable statutory authority; and

(iii) Criminal penalties under sections 286, 287, 1001, and 1002 of Title 18, United States Code or any other applicable statutory authority;

(15) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;

(16) That unless there are applicable contractual or statutory provisions to

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the contrary, that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee (5 U.S.C. 5514); and

(17) Proceedings with respect to such debt are governed by section 5 of the Debt Collection Act of 1982 (5 U.S.C. 5514).

(b) The Department is not required to comply with paragraph (a) of this section for any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay if the amount to be recovered was accumulated over four pay periods or less.

### § 5.12 Hearing.

(a) *Request for hearing.* Except as provided in paragraph (b) of this section, an employee who desires a hearing concerning the existence or amount of the debt or the proposed offset schedule must send such a request to the office designated in the notice of intent. See § 5.11(a)(8). The request (or petition) for hearing must be received by the designated office on or before the fifteenth (15) calendar day following receipt of the notice. The employee must also specify whether an oral or paper hearing is requested. If an oral hearing is desired, the request should explain why the matter cannot be resolved by review of the documentary evidence alone.

(b) *Failure to timely submit.* If the employee files a petition for a hearing after the expiration of the fifteen (15) calendar day period provided for in paragraph (a) of this section, the Department should accept the request if the employee can show that the delay was the result of circumstances beyond his or her control or because of a failure to receive actual notice of the filing deadline (unless the employee had actual notice of the filing deadline).

(1) An employee waives the right to a hearing, and will have his or her disposable pay offset in accordance with the Department's offset schedule, if the employee:

(i) Fails to file a request for a hearing unless such failure is excused; or

(ii) Fails to appear at an oral hearing of which he or she was notified unless