

## §21.19

some other reasonable cause. If the debt is an unsecured claim for administrative collection, attempts should be made to obtain an executed confess-judgment note, comparable to the Department of Justice Form USA-70a, from a debtor when the total amount of the deferred installments will exceed \$750. Such notes may be sought when an unsecured obligation of a lesser amount is involved. When attempting to obtain confess-judgment notes, Departmental units should provide their debtors with written explanation of the consequences of signing the note, and should maintain documentation sufficient to demonstrate that the debtor has signed the note knowingly and voluntarily. Security for deferred payments other than a confess-judgment note may be accepted in appropriate cases. A Departmental units head (or designee) may accept installment payments notwithstanding the refusal of a debtor to execute a confess-judgment note or to give other security.

(b) If the debtor owes more than one debt and designates how a voluntary installment payment is to be applied as among those debts, that designation must be followed. If the debtor does not designate the application of the payment, the Department debt collection official should apply payments to the various debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

### §21.19 Additional administrative collection action.

Nothing contained in this subpart is intended to preclude the utilization of any other administrative remedy which may be available.

## PART 22—SALARY OFFSET

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AUTHORITY: 5 U.S.C. 5514; 5 CFR 550.1104.

SOURCE: 52 FR 7, Jan. 2, 1987, unless otherwise noted.

### §22.1 Scope.

(a) These regulations provide Department procedures for collection by salary offset of a Federal employee's pay to satisfy certain debts owed the Government.

(b) These regulations apply to collections by the Secretary from:

(1) Federal employees who owe debts to the Department; and

(2) Current employees of the Department who owe debts to other agencies.

(c) These regulations do not apply to debts or claims arising under the Internal Revenue Code of 1954, as amended (26 U.S.C. 1 *et seq.*); the Social Security Act (42 U.S.C. 301 *et seq.*); the tariff laws of the United States; or to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute (e.g., travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108).

(d) These regulations do not apply to 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.

(e) Nothing in these regulations precludes the compromise, suspension, or termination of collection actions where appropriate.

### §22.2 Definitions.

(a) *Agency* means:

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(1) An Executive department, military department, Government corporation, or independent establishment as defined in 5 U.S.C. 101, 102, 103, and 104, respectively;

(2) The United States Postal Service;

(3) The Postal Rate Commission;

(4) An agency or court of the judicial branch; and

(5) An agency of the legislative branch, including the U.S. Senate and the U.S. House of Representatives.

(b) *Creditor agency* means the agency to which the debt is owed.

(c) *Days* means calendar days.

(d) *Debt* means:

(1) An amount of money owed the United States from sources which include loans insured or guaranteed by the United States; from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, fines and forfeitures (except those arising under the Uniform Code of Military Justice);

(2) An amount owed to the United States by an employee for pecuniary losses, including, but not limited to:

(i) Theft, misuse, or loss of Government funds;

(ii) False claims for services and travel;

(iii) Illegal or unauthorized obligations and expenditures of Government appropriations;

(iv) Authorization of the use of Government owned or leased equipment, facilities, supplies, and services for other than official or approved purposes;

(v) Vehicle accidents where the employee is determined to be liable for the repair or replacement of a Government owned or leased vehicle; and

(vi) Erroneous entries on accounting records or reports for actions for which the employee can be held liable.

(e) *Department* or *DOC* means the United States Department of Commerce.

(f) *Disposable pay* means the amount that remains from an employee's Federal pay after required deductions for Federal, State and local income taxes; Social Security taxes, including Medicare taxes; Federal retirement programs; premiums for basic life and health insurance benefits; and such

other deductions that are required by law to be withheld.

(g) *Employee* means:

(1) A civilian employee as defined in 5 U.S.C. 2105;

(2) A member of the Armed Forces or Reserves of the United States, or of a uniformed service, including a commissioned officer of the National Oceanic and Atmospheric Administration;

(3) An employee of the United States Postal Service or the Postal Rate Commission;

(4) An employee of an agency or court of the judicial branch; and

(5) An employee of the legislative branch, including the U.S. Senate and the U.S. House of Representatives.

(h) *FCCS* means the Federal Claims Collection Standards jointly published by the Department of Justice and the General Accounting Office at 4 CFR 101.1 *et seq.*

(i) *Offset* means a deduction from the disposable pay of an employee to satisfy a debt with or without the employee's consent.

(j) *Pay* means basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an employee not entitled to basic pay, other authorized pay.

(k) *Paying agency* means the agency employing the individual and authorizing his or her current pay.

(l) *Payroll office* means the Departmental or other office providing payroll services to the employee.

(m) *Secretary* means the Secretary of Commerce, or his/her designee.

### § 22.3 Pay subject to offset.

(a) An offset from an employee's pay may not exceed 15 percent of the employee's disposable pay, unless the employee agrees in writing to a larger offset amount.

(b) An offset from pay shall be made at the officially established pay intervals from the employee's current pay account.

(c) If an employee retires, resigns, or is discharged, or if his or her employment period or period of active duty otherwise ends, an offset may be made from subsequent payment on any amount due to the individual from the Federal Government.