

§ 3.32

no compromise be made, or no collection action suspended or terminated without advice from the USDA General Counsel.

§ 3.32 Offset against amounts payable from Civil Service retirement and disability fund.

An agency may request that monies payable to a debtor from the Civil Service Retirement and Disability Fund be administratively offset to collect debts owed to the agency by the debtor. The creditor agency must certify that the debtor owes the debt, the amount of the debt, and that the creditor agency has complied with 4 CFR 102.4 and Office of Personnel Management regulations. The request must be submitted to the official designated in Office of Personnel Management regulations.

[50 FR 7722, Feb. 26, 1985, as amended at 55 FR 38663, Sept. 20, 1990]

§ 3.33 Offset of debtor's judgment against the United States.

Collection by offset against a judgment obtained by a debtor against the United States must be effected in accordance with 31 U.S.C. 3728.

§ 3.34 Interest, penalties and administrative costs.

(a) USDA creditor agencies must attempt to collect interest, penalties and administrative costs on any delinquent debts owed to the United States in accordance with 4 CFR 102.13 and 102.14, or according to written documentation constituting the basis of the debt, or under any guidelines issued by the Assistant Secretary for Administration or by the creditor agency's fiscal officer.

(1) Interest will not be assessed on interest, penalties or administrative costs. However, if a debtor defaults on a repayment agreement, interest which has accrued but was not collected under the defaulted agreement will be added to the principal to be paid under a new repayment agreement.

(2) Agencies will assess a penalty of six percent a year on any unpaid debt balance delinquent for more than 90 days. This charge accrues from the date the debt becomes delinquent.

7 CFR Subtitle A (1-1-06 Edition)

(3) Agencies will charge the debtor for administrative costs incurred in processing and handling a delinquent debt. Administrative costs may include costs of obtaining credit reports, using a private debt collector, or selling collateral or property to satisfy the debt.

(b) Agencies will waive the collection of interest assessed under these regulations on a delinquent debt or any portion of that debt which is paid within 30 days after the date on which interest began to accrue. Agencies may extend the 30-day period on a case-by-case basis, if it is determined that an extension is appropriate because of partial or complete absence of culpability by the debtor for the delay in payment.

(c) Agencies may waive collection of all or part of the interest, penalties, and administrative costs assessed under these regulations when it is determined:

(1) That the Government cannot collect the full amount of the delinquent debt or interest and costs because of the debtor's inability to pay the full amount within a reasonable time (considering such factors as those listed at 4 CFR 103.2(b)), or the debtor's refusal to pay the full amount where the Government is unable to effect collection in full within a reasonable time; or

(2) That there is a real doubt concerning the Government's ability to recover interest, penalties or costs in court, either because of the legal or equitable issues involved or because the facts are being disputed in court; or

(3) That the cost of collecting the delinquent debt with interest, penalties, or costs outweighs the amounts to be recovered; or

(4) That the collection of some or all of these charges would be against equity and good conscience or not in the best interests of the United States; or

(5) (For waiver of interest) that a request is pending for reconsideration, administrative review, or waiver of the underlying delinquent debt under a statute allowing but not requiring one or more of these remedies. If the statute under which review or waiver is sought by the debtor prohibits the agency from collecting the delinquent debt before resolution of the review or waiver request, interest, penalties and administrative costs must be waived