

Railroad Retirement Board

§ 367.8

can be accomplished, both practically and legally, but also whether offset is best suited to further and protect all of the Government's interests. In appropriate circumstances, the Board may give due consideration to the debtor's financial condition, and is not required to use offset in every instance in which there is an available source of funds. The Board may also consider whether offset would substantially interfere with or defeat the purposes of the program authorizing the payments against which offset is contemplated.

(d) Before advising the debtor that the delinquent debt will be subject to administrative offset, the agency official responsible for administering the program under which the debt arose shall review the claim and determine that the debt is valid and overdue.

(e) Administrative offset shall be considered by the Board only after attempting to collect a claim under the statutes administered by the Board except that no claim under this Act that has been outstanding for more than 10 years after the Government's right to collect the debt first accrued may be collected by means of administrative offset, unless facts material to the right to collect the debt were not known and could not reasonably have been known by the official of the agency who was charged with the responsibility to discover and collect such debts.

[56 FR 46375, Sept. 12, 1991, as amended at 62 FR 19220, Apr. 21, 1997.]

§ 367.4 Notification to another agency.

When the Board refers a debt under this part to another agency for collection by means of administrative offset, the Board shall provide a written certification to the other agency stating that the debtor owes the debt (including the amount) and that the provisions of this part have been fully complied with.

§ 367.5 Notification to debtor.

The notification provided by the Board to the debtor will inform the debtor how he or she may present evidence to the Board that all or part of the debt is not past due or legally enforceable.

§ 367.6 Consideration of evidence.

Evidence submitted by the debtor will be considered only by officials or employees of the Board, and a determination that all or a portion of such debt is past-due and legally enforceable will be made only by such officials or employees.

§ 367.7 Change in notification to another government agency.

If, after submitting notification of liability for a debt to another agency, the Board:

(a) Determines that an error has been made with respect to the information contained in the notification;

(b) Receives a payment or credits a payment to the account of the debtor named in the notification that reduces the amount of the debt referred to the other agency for offset; or

(c) Receives notification that the debtor has filed for bankruptcy under title 11 of the United States Code or has been adjudicated bankrupt and the debt has been discharged; the Board will promptly notify the other agency. If the amount of a debt is reduced after referral by the Board and offset by the other agency, the Board will refund to the debtor any excess amount and will promptly notify the other agency of any refund made by the Board. If the amount of debt has increased after referral by the Board but prior to offset by the other agency, then the Board will promptly notify the other agency of such increase.

[56 FR 46375, Sept. 12, 1991, as amended at 60 FR 66073, Dec. 21, 1995]

§ 367.8 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund.

(a) The Board may request that monies which are due and payable to a debtor from the Civil Service Retirement and Disability Fund be administratively offset in reasonable amounts in order to collect debts owed to the Board by the debtor. Such requests shall be made to the appropriate officials of the Office of Personnel Management in accordance with such regulations as may be prescribed by the Director of that Office.

(b) When making a request for administrative offset under paragraph (a)