Office of Personnel Management

§ 835.606 Change in notification to Internal Revenue Service.

(a) Except as noted in paragraph (b) of this section, after OPM sends IRS notification of an individual’s liability for a debt, OPM will promptly notify IRS of any change in the notification, if OPM—

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

(2) 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 IRS for offset; or

(3) Receives notification that the individual owing the debt has filed for bankruptcy under title 11 of the United States Code or has been adjudicated bankrupt and the debt has been discharged.

§ 835.605 OPM action as a result of consideration of evidence submitted as a result of the notice of intent.

(a) Consideration of evidence. If, as a result of the Notice of Intent, OPM receives notice that the debtor will submit additional evidence or receives additional evidence from the debtor within the prescribed time period, any notice to the IRS will be stayed until OPM can—

(1) Consider the evidence presented by the debtor; and

(2) Determine whether or not all or a portion of the debt is still past due and legally enforceable; and

(3) Notify the debtor of its determination.

(b) Notification to the debtor. Following review of the evidence, OPM will issue a written decision notifying the debtor whether OPM has sustained, amended, or canceled its determination that the debt is past-due and legally enforceable. The notice will advise the debtor of any further action to be taken and explain the supporting rationale for the decision.

(c) OPM action on the debt. (1) OPM will notify the debtor of its intent to refer the debt to the IRS for offset against the debtor’s Federal income tax refund, if it sustains its decision that the debt is past-due and legally enforceable. OPM will also notify the debtor whether the amount of the debt remains the same or is modified.

(2) OPM will not refer the debt to the IRS for offset against the debtor’s Federal income tax refund, if it reverses its decision that the debt is past-due and legally enforceable.

§ 835.604 Reasonable attempt to notify.

In order to constitute a reasonable attempt to notify the debtor, OPM must have used a mailing address for the debtor obtained from the IRS pursuant to 26 U.S.C. 6103(m)(2) within a period of 1 year preceding the attempt to notify the debtor, unless OPM received clear and concise notice from the debtor that notices from the agency are to be sent to a different from the address obtained from IRS. Clear and concise notice means that the debtor has provided the agency with written notification, including the debtor’s name and identifying number (as defined in 26 CFR 301.6109-1), and the debtor’s intent to have the agency notices sent to the new address.

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