

Fiscal Service, Treasury

§ 248.4

§ 248.1 Introductory.

This part governs the issuance of substitutes for checks of the United States drawn on United States dollar or foreign currency accounts, maintained with designated depositories in foreign countries or territories or possessions of the United States. Checks of the United States drawn on such depositories are hereafter referred to as "depository checks."

[54 FR 35647, Aug. 29, 1989]

DELEGATION OF AUTHORITY

§ 248.2 Delegation of authority to issue substitute checks.

Pursuant to authority contained in section 3646 of the Revised Statutes, as amended, and subject to such procedural requirements as may be prescribed by the Treasury Department, there is hereby delegated to heads of departments and agencies whose disbursing officers issue depository checks, authority to authorize officers or employees of their respective departments or agencies to issue substitutes of such checks, prior to the close of the fiscal year next following the fiscal year in which the checks are issued, and to receive and approve undertakings to indemnify the United States in such cases. The Commissioner of the Financial Management Service, Treasury Department, is hereby delegated authority to issue substitutes of depository checks drawn by the Director, Operations Group, Treasury Department, or by officers disbursing under delegation from the Director, Operations Group, and to receive and approve undertakings of indemnity in such cases. The authority delegated to the Commissioner of the Financial Management Service may be redelegated by him to such disbursing officers.

[39 FR 20969, June 17, 1974, as amended at 49 FR 47001, 47002, Nov. 30, 1984]

ACTION TO BE TAKEN BY CLAIMANTS

§ 248.3 Advice of nonreceipt or loss.

The payee or owner of a depository check which is not received, or which has been lost, stolen, destroyed or mutilated or defaced to such an extent

that it is rendered non-negotiable, should immediately notify the disbursing officer who issued such check or the administrative agency exercising jurisdiction over such disbursing officer, over his signature and current address, giving information as to the circumstances of the loss, theft or destruction of the check and whether it was endorsed, and also requesting that payment of the check be stopped. A claimant who is one other than the payee of the check, should present a statement in support of his ownership of the check. If the check has been mutilated or defaced, it should be forwarded to the issuing disbursing officer with request for the issuance of a substitute.

§ 248.4 Undertaking of indemnity.

(a) If the check is found to be outstanding and unpaid and it appears that the proceeds are due the claimant, the disbursing officer will request the claimant to execute an undertaking of indemnity, Form 2244, in a penal sum equal to the amount of the check (or checks).

(b) Except in the circumstances set forth below, a corporate surety authorized by the Secretary of the Treasury to act as an acceptable surety on bonds in favor of the United States or two responsible individual sureties will be required on the undertaking of indemnity. It will be the responsibility of the claimant in a foreign country to secure a certification as to the financial sufficiency of the individual sureties executed by one of the persons listed in, and in the manner prescribed by, the instruction appearing under the Certificate as to Sureties on the face of Form 2244.

(c) Where the amount of the original check (or checks) is \$200 or less, or the equivalent in foreign currency, one financially responsible individual surety may be accepted.

(d) Unless it is determined that the requirement of sureties is essential in the public interest, sureties will not be required under the following circumstances:

(1) If the officer authorized to issue a substitute check is satisfied that the loss, theft, destruction, mutilation or

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defacement of the original check occurred without fault of the owner or holder and while the check was in the custody or control of the United States or of a person duly authorized as an agent of the United States when performing services in connection with an official function of the United States;

(2) If substantially the entire check is presented and surrendered by the owner or holder and the disbursing officer is satisfied as to the identity of the check presented and that any missing portions are not sufficient to form the basis of a valid claim against the United States;

(3) If the owner or holder is the United States or an officer or employee thereof in his official capacity, a State, the District of Columbia, a territory or possession of the United States, a municipal corporation or political subdivision of any of the foregoing, a corporation the entire capital of which is owned by the United States, a foreign government or agency thereof, a foreign central bank, or a Federal Reserve Bank.

§ 248.5 Exception to requirement of undertaking of indemnity Form 2244.

Notwithstanding the provisions of § 248.4, if in any case involving a financially responsible claimant it is impracticable to obtain the execution of Standard Form 2244, with or without sureties, the officer or employee responsible for handling the claim, in his discretion, may accept an undertaking of indemnity in the form of a written statement or letter, substantially as follows:

In consideration of the issuance of a substitute check in lieu of _____

(Check description)

and the payment of the substitute check, the undersigned undertakes and agrees to save harmless and indemnify the United States of America, its officers and agents, of and from any and all liability, loss, expense, claim, and demand whatsoever, arising in any manner by reason of or on account of said original check (or checks) or the stoppage or payment thereof, or the issue or payment of the substitute check (or checks), to replace the same.

The undertaking of indemnity should be appropriately witnessed, and if it is

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executed on behalf of a corporation or other business organization, the individual executing the same should furnish proof of this authority to so act. In appropriate cases, a foreign language translation of the foregoing letter of indemnity may be accepted.

[25 FR 10869, Nov. 16, 1960. Redesignated at 39 FR 20969, June 17, 1974, as amended at 54 FR 35648, Aug. 29, 1989]

§ 248.6 Recovery of original check.

(a) If the claimant recovers an original check after he has furnished advice of non-receipt but before receipt of a substitute check, he should immediately notify the disbursing officer or agency concerned and hold the check until receipt of advice from the disbursing officer or agency concerned regarding the negotiability of such original check.

(b) In the event the substitute check has been received prior to the recovery of the original check, the original check should be returned immediately to the disbursing officer.

(c) Under no circumstances should the claimant attempt to cash both the original and substitute check.

§ 248.7 Claims requiring settlement action.

There are certain types of claims on which the disbursing officer will not be authorized to take final action. These include:

(a) Claims on original checks which have been outstanding more than one full fiscal year following the fiscal year in which the checks were issued, and

(b) Claims involving doubtful questions of law and fact.

In such cases the disbursing officer will obtain information and supporting papers, including an undertaking of indemnity, from the claimant and transmit such data to the Claims Division, General Accounting Office, for settlement action.

§ 248.8 Inquiries.

Claimants should direct any inquiries regarding the application of these regulations to the department or agency or disbursing officer concerned.