

§ 19.11

hearing under this section is not required to be a formal evidentiary hearing, although Commerce entities should carefully document all significant matters discussed at the hearing. Commerce entities may suspend collection through administrative offset and/or other collection actions pending the resolution of a debtor's dispute.

(d) *Procedures for expedited offset.* Under the circumstances described in 31 CFR 901.3(b)(4)(iii), Commerce entities may effect an offset against a payment to be made to the debtor prior to sending a notice to the debtor, as described in §19.4 of this Part, or completing the procedures described in paragraph (b)(2) and (c) of this section. Commerce entities shall give the debtor notice and an opportunity for review as soon as practicable and promptly refund any money ultimately found not to have been owed to the Government. Legal counsel approval to effect such pre-notice offset is required as described in Department of Commerce Credit and Debt Management Operating Standards and Procedures Handbook (currently at <http://www.osec.doc.gov/ofm/credit/cover.htm>).

§ 19.11 How will Commerce entities use tax refund offset to collect a Commerce debt?

(a) *Tax refund offset.* In most cases, the Financial Management Service uses the Treasury Offset Program to collect Commerce debts by the offset of tax refunds and other Federal payments. See §19.9(c) of this Part. If not already transferred to the Financial Management Service under §19.9 of this Part, Commerce entities will refer to the Treasury Offset Program any past-due, legally enforceable Commerce debt for collection by tax refund offset. See 26 U.S.C. 6402(d), 31 U.S.C. 3720A and 31 CFR 285.2.

(b) *Notice.* At least sixty (60) days prior to referring a Commerce debt to the Treasury Offset Program, Commerce entities will send notice to the debtor in accordance with the requirements of §19.4 of this Part. Commerce entities will certify to the Financial Management Service's Treasury Offset Program, in writing, that the Commerce debt is past due and legally enforceable in the amount submitted and

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that the Commerce entities have made reasonable efforts to obtain payment of the Commerce debt as described in 31 CFR 285.2(d). In addition, Commerce entities will certify their compliance with all applicable due process and other requirements described in this Part and other Federal laws. See 31 U.S.C. 3720A(b) and 31 CFR 285.2.

(c) *Administrative review.* The notice described in §19.4 of this Part shall provide the debtor with at least 60 days prior to the initiation of tax refund offset to request an administrative review as described in §19.10(c) of this Part. Commerce entities may suspend collection through tax refund offset and/or other collection actions pending the resolution of the debtor's dispute.

§ 19.12 How will Commerce entities offset a Federal employee's salary to collect a Commerce debt?

(a) *Federal salary offset.* (1) Salary offset is used to collect debts owed to the United States by Commerce Department and other Federal employees. If a Federal employee owes a Commerce debt, Commerce entities may offset the employee's Federal salary to collect the Commerce debt in the manner described in this section. For information on how a Federal agency other than a Commerce entity may collect debt from the salary of a Commerce Department employee, see §§19.20 and 19.21, subpart C, of this Part.

(2) Nothing in this Part requires a Commerce entity to collect a Commerce debt in accordance with the provisions of this section if Federal law allows otherwise. See, for example, 5 U.S.C. 5705 (travel advances not used for allowable travel expenses are recoverable from the employee or his estate by setoff against accrued pay and other means) and 5 U.S.C. 4108 (recovery of training expenses).

(3) Commerce entities may use the administrative wage garnishment procedure described in §19.13 of this Part to collect a Commerce debt from an individual's non-Federal wages.

(b) *Centralized salary offset through the Treasury Offset Program.* As described in §19.9(a) of this Part, Commerce entities will refer Commerce debts to the Financial Management Service for collection by administrative offset, including