

§ 1650.113

29 CFR Ch. XIV (7-1-13 Edition)

§ 1650.113 Non-waiver of rights by payments.

An employee's payment of all or any portion of a debt collected by salary offset will not be construed as a waiver of any right the employee may have under 5 U.S.C. 5514 or any other provision of contract or law, unless there are statutory or contractual provisions to the contrary.

§ 1650.114 Refunds.

Amounts paid, or deducted by salary offset, by an employee for a debt that is waived or otherwise not found owing to the United States will be refunded promptly to the employee. Refunds do not bear interest unless required by law or contract.

Subpart B—Procedures for the Collection of Debts by Federal Tax Refund Offset

§ 1650.201 Purpose.

This subpart establishes procedures for EEOC to refer past-due legally enforceable debts to the Department of the Treasury (Treasury) for offset against the income tax refunds of persons owing debts to EEOC pursuant to 31 U.S.C. 3720A and 31 CFR 285.2. The general standards and procedures governing the collection, compromise, termination, and referral to the Department of Justice of claims for money and property that are prescribed in the regulations issued jointly by the Secretary of the Treasury and the Attorney General of the United States, the Federal Claims Collection Standards (31 CFR parts 900-904), apply to the administrative collection activities of the EEOC.

§ 1650.202 Past-due legally enforceable debt.

A past due, legally enforceable debt is a debt:

- (a) That accrued within ten years of referral to Treasury;
- (b) That is at least \$25.00; and
- (c) That the agency has made reasonable efforts to collect by:
 - (1) Submitting the debt to Treasury, Financial Management Service, for collection by Administrative Offset and complying with 31 U.S.C. 3716(a) and re-

lated regulations, to the extent that collection by administrative offset is not prohibited by statute;

- (2) Notifying, or making a reasonable attempt to notify, the debtor that the debt is past-due, and unless repaid within 60 days after the date of the notice, will be referred to Treasury for tax refund offset;

- (3) Giving the debtor at least 60 days from the date of notification to present evidence that all or part of the debt is not past-due or legally enforceable, considering any evidence presented by such debtor, and determining that an amount of such debt is past-due and legally enforceable; and

- (4) Providing the debtor with an opportunity to make a written agreement to repay the amount of the debt.

§ 1650.203 Notification of intent to collect.

EEOC's notification of intent to collect by tax refund offset shall provide:

- (a) The amount of the debt;
- (b) That unless the debt is repaid within 60 days from the date of EEOC's notification of intent, EEOC intends to collect the debt by requesting Treasury to offset an amount equal to the amount of the debt and all accumulating interest and other charges against any overpayment of tax after liabilities subject to 26 U.S.C. 6402(a) and (c) have been satisfied;
- (c) A mailing address for forwarding any written correspondence and a contact and a telephone number for any questions;
- (d) That the debtor may make a written agreement with EEOC to repay the amount of the debt; and
- (e) That the debtor may present evidence within 60 days to EEOC that all or part of the debt is not past due or legally enforceable by:

- (1) Sending a written request for a review of the evidence to the address provided in the notification;
- (2) Stating in the request for review the amount disputed and the reasons why the debtor believes that the debt is not past-due or is not legally enforceable; and
- (3) Including in the request for review any documents that the debtor wishes to be considered, or stating that the

additional information will be submitted within the remainder of the 60 day period.

§ 1650.204 Reasonable attempt to notify.

In order to constitute a reasonable attempt to notify the debtor, EEOC may use the last known address on record with the EEOC. In addition, the EEOC may attempt to obtain a more current address from notices returned by the United States Postal Service, or by using the Treasury's Internal Revenue Service (IRS) address inquiry. If the debtor cannot be notified by EEOC through these procedures, the debt will be sent to Treasury for collection.

§ 1650.205 Consideration of evidence submitted as a result of notification of intent.

(a) *Consideration of evidence.* If, as a result of the notification of intent, EEOC receives notice that the debtor will submit additional evidence or receives additional evidence from the debtor within the prescribed time period, collection will be stayed until EEOC:

- (1) Considers the evidence presented by the debtor;
- (2) Determines whether all or a portion of the debt is still past-due and legally enforceable; and
- (3) Notifies the debtor of its determination.

Failure to submit the evidence within 60 days from the date of notification of intent will result in a referral of the debt to Treasury.

(b) *Notification to the debtor.* Following its review of the evidence, EEOC will issue a written decision notifying the debtor whether EEOC 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, such as any modification of the debt amount and/or referral of the debt to Treasury, and explain the supporting rationale for the decision.

§ 1650.206 Notification to Treasury.

(a) When referring a debt to Treasury, EEOC will certify that the debt meets all of the requirements in § 1650.202 and will provide the name,

taxpayer identifying number (as defined in 26 U.S.C. 6109) of the debtor, the amount of the debt, the date on which the debt became past-due, and the designation of EEOC as the agency referring the debt.

(b) After EEOC's initial notification and referral of a debt to Treasury for offset against a debtor's Federal income tax refund, EEOC will promptly notify Treasury of any changes in the notification, if EEOC:

- (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 Treasury for offset; or
- (3) Refunds all or part of the offset amount to the debtor.

(c) When EEOC requests Treasury to increase the amount of a debt owed by a debtor named in EEOC's original notification to Treasury, EEOC will certify that the additional amount meets all of the requirements in § 1650.202.

(d) If the amount of a debt is reduced after referral by EEOC and offset by the Treasury, EEOC will refund to the debtor any excess amount and will promptly notify the Treasury of any refund made by EEOC.

§ 1650.207 Administrative charges.

All administrative charges incurred in connection with the referral of a debt to the Treasury and all costs of collection of the debt will be assessed on the debt and thus increase the amount of the offset.

Subpart C—Procedures for Collection of Debts by Administrative Offset

§ 1650.301 Purpose and regulatory procedures for the collection of debts by administrative offset.

The Commission hereby adopts by cross-reference the administrative offset regulation issued by the Department of the Treasury at 31 CFR 285.5. The general standards and procedures governing the collection, compromise, termination, and referral to the Department of Justice of claims for