

Equal Employment Opportunity Comm.

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soon as practicable after the hearing, but not later than 60 days after the date on which the request for hearing was received by the Commission, unless the hearing was delayed at the request of the employee, in which case the 60 day decision period shall be extended by the number of days by which the hearing was postponed.

(f) *Content of decision.* The written decision shall include:

(1) A summary of the facts concerning the origin, nature, and amount of the debt;

(2) The hearing official's findings, analysis, and conclusions; and

(3) The revised terms of any repayment schedule, if applicable.

(g) *Failure to appear.* In the absence of good cause, if the employee or the representative of the agency fails to appear, the hearing official shall proceed with the hearing as scheduled, and make his or her determination based upon the oral testimony presented and the documentation submitted by both parties.

§ 1650.110 Implementation of salary offset.

(a) *Method of collection.* A debt will be collected in a lump sum or by installment deductions at officially established pay intervals from an employee's current pay account, unless the employee and the Commission agree in writing to alternate arrangements for repayment.

(b) *Source of deductions.* Deductions will be made only from basic pay, special pay, incentive pay, retired pay, retainer pay or in the case of an employee not entitled to basic pay, other authorized pay.

(c) *Duration of deductions.* Debts will be collected in one lump sum when possible to minimize interest costs and administrative processing fees for the employee. If the employee is financially unable to pay in one lump sum and the amount of debt exceeds 15 percent of the employee's disposable pay for an officially established pay interval, collection by offset will be made in installments. Such installment deductions will be made over a period not greater than the anticipated period of active duty or employment of the em-

ployee and, except in rare circumstances, not to exceed 3 years.

(d) *Limitation on amount of deductions.* The size and frequency of installment deductions will bear a reasonable relationship to the size of the debt and the employee's ability to pay. The amount deducted for any period, however, will not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount. Installment payments of less than \$25 will be accepted only in the most unusual circumstances.

(e) *When deductions may begin.* (1) If the employee files a timely request for hearing, or a proposed voluntary repayment agreement, deductions will begin in the next bi-weekly salary payment after a final decision is issued on the request or repayment proposal.

(2) If the employee fails to submit a timely request for hearing or proposal for a voluntary repayment agreement, deductions will commence in the next bi-weekly salary payment after the expiration of 30 days following the employee's receipt of the Notice of Debt under 1650.105(c).

(f) *Lump-sum deduction from final check.* When the employee retires, resigns, or ends his or her period of active duty before the debt is collected in full, the employee's debt will be automatically deducted from the final payments (e.g., final salary payment, lump-sum leave, etc.) due the employee to the extent necessary to liquidate the debt. If the employee's final pay is not sufficient to permit all deductions to be made, the order of precedence for the deductions will be: Retirement and FICA; Medicare; Federal income taxes; health benefits; group life insurance; indebtedness due to the United States; State income taxes; and voluntary deductions and allotments.

§ 1650.111 Recovery from other payments due a separated employee.

When a debt owed to EEOC has not been completely liquidated through salary offset and the employee has separated from EEOC, the Commission shall, pursuant to 31 U.S.C. 3716 and the Federal Claims Collection Standards, 31 CFR parts 900-904, seek to offset the

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balance of the debt against any financial payment due the employee from the U.S. Government.

§ 1650.112 Interest, penalties, and administrative costs.

Unless a debt is paid in full within 30 days of receipt of the Notice of Debt, the Commission will charge interest at the rate established in accordance with 31 U.S.C. 3717 effective on the date of delinquency, and a processing charge pursuant to 31 U.S.C. 3717. The Commission will charge a penalty, pursuant to 31 U.S.C. 3717(e)(2) not to exceed 6 percent a year, on the amount due on a debt that is delinquent more than 90 days. This charge shall accrue from the date of delinquency. If an employee files a timely proposal for a repayment agreement, request for waiver, or a request for a hearing, interest, penalties, and administrative costs will be suspended during the time the Commission is considering such request(s).

§ 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 gov-

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erning 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 related 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