

### § 3.44

### 7 CFR Subtitle A (1–1–14 Edition)

#### **§ 3.44 Centralized administrative offset.**

(a) *Mandatory referral.* After the notice and review opportunity requirements of § 3.41 are met, an agency shall refer debts which are over 180 days delinquent to Treasury for collection through centralized administrative offset 61 days after the date of the Notice of Intent to Collect by Administrative Offset provided in accordance with § 3.41. If the debtor seeks review under subpart F, referral of the debt must occur within 30 days of the final decision upholding the agency decision to offset the debt if the debt is more than 180 days delinquent.

(b) *Discretionary referral.* After the notice and review opportunity requirements of § 3.41 are met, and administrative review under subpart F is not sought or is unsuccessful on the part of the debtor, an agency may refer a debt that is less than 180 days delinquent.

(c) *Procedures for referral.* Agencies shall refer debts to Treasury for collection in accordance with Treasury procedures set forth in 31 CFR part 285.5.

(d) *Payment authorizing agency responsibilities.* (1) The names and TINs of debtors who owe debts referred to Treasury under this section shall be compared to the names and TINs on payments to be made by Federal disbursing officials. Federal disbursing officials include disbursing officials of Treasury, the Department of Defense, the United States Postal Service, other government corporations, and disbursing officials of the United States designated by Treasury. When the name and TIN of a debtor match the name and TIN of a payee and all other requirements for offset have been met, the payment authorizing agency must offset a payment to satisfy the debt.

(2) Any USDA official serving as a Federal disbursing official for purposes of effecting centralized administrative offset under this section must notify a debtor/payee in writing that an offset has occurred to satisfy, in part or in full, a past due, legally enforceable delinquent debt. The notice must include the information set forth in paragraph (d)(4) of this section.

(3) As described in 31 CFR 285.5(g)(1) and (2), any USDA official serving as a Federal disbursing official for purposes

of centralized administrative offset under this section shall furnish a warning notice to a payee/debtor prior to beginning offset of recurring payments. Such warning notice shall include the information set forth in paragraph (d)(4) of this section.

(4) The notice shall include a description of the type and amount of the payment from which the offset was taken, the amount of offset that was taken, the identity of the creditor agency requesting the offset, and a contact point within the creditor agency who will respond to questions regarding the offset.

(5) The priorities for collecting multiple payments owed by a payee/debtor shall be those set forth in 31 CFR 285.5(f)(3).

#### **§ 3.45 USDA payment authorizing agency offset of pro rata share of payments due entity in which debtor participates.**

(a) A USDA payment authorizing agency, to satisfy either a non-centralized or centralized administrative offset under §§ 3.43 and 3.44, may offset:

(1) A debtor's pro rata share of USDA payments due any entity in which the debtor participates, either directly or indirectly, as determined by the creditor agency or the payment authorizing agency; or

(2) USDA payments due any entity that the debtor has established, or reorganized, transferred ownership of, or changed in some other manner the operation of, for the purpose of avoiding payment on the claim or debt, as determined by the creditor agency or the payment authorizing agency.

(b) Prior to exercising the authority of this section to offset any portion of a payment due an entity, the creditor agency must have provided notice to that entity in accordance with § 3.41 of its intent to offset payments to the entity in satisfaction of the debt of an individual debtor participating in that entity.

#### **§ 3.46 Offset against tax refunds.**

USDA will take action to effect administrative offset against tax refunds due to debtors under 26 U.S.C. 6402 in accordance with the provisions of 31