

Subsec. (e)(2). Pub. L. 105-85, §1012(2), added par. (2) and struck out former par. (2) which read as follows: "Payment of a claim settled under paragraph (1) shall be subject to the availability of appropriations for payment of that particular claim."

1996—Pub. L. 104-316, §202(n)(1)(A), struck out "of the Comptroller General" after "Authority" in section catchline.

Subsec. (a). Pub. L. 104-316, §202(n)(1)(B), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Except as provided in this chapter or another law, the Comptroller General shall settle all claims of or against the United States Government. A claim that was not administratively examined before submission to the Comptroller General shall be examined by 2 officers or employees of the General Accounting Office independently of each other."

Subsec. (b)(1). Pub. L. 104-316, §202(n)(1)(C), in introductory provisions substituted "The claim must be received by the official responsible under subsection (a) for settling the claim or by the agency that conducts the activity from which the claim arises within 6 years after the claim accrues except—" for "The claim must be received by the Comptroller General within 6 years after the claim accrues except—".

Subsec. (b)(2). Pub. L. 104-316, §202(n)(1)(D), substituted "received" for "presented to the Comptroller General" and "in paragraph" for "in clause".

Subsec. (b)(3). Pub. L. 104-316, §202(n)(1)(E), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The Comptroller General shall return a claim not received in the time required under this subsection with a copy of this subsection and no further communication is required."

Subsec. (d). Pub. L. 104-316, §202(n)(1)(F), substituted "official responsible under subsection (a) for settling the claim" for "Comptroller General" before "shall report to Congress" and "official" for "Comptroller General" before "believes" and before period at end.

Subsec. (e). Pub. L. 104-201 added subsec. (e).

1987—Subsec. (c). Pub. L. 100-86 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "A claim on a check or warrant that the records of the Comptroller General or the Secretary of the Treasury show as being paid must be presented to the Comptroller General or the Secretary within 6 years after the check or warrant was issued."

1983—Subsec. (b)(2). Pub. L. 97-452 inserted "this" before "subsection".

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-163, div. A, title X, §1056(e)(2), Jan. 6, 2006, 119 Stat. 3440, as amended by Pub. L. 111-383, div. A, title X, §1075(h)(3), Jan. 7, 2011, 124 Stat. 4377, provided that the amendment by section 1056(e)(2) is effective as of Dec. 2, 2002, and as if included in Pub. L. 107-314 as enacted.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-314, div. A, title VI, §635(c), Dec. 2, 2002, 116 Stat. 2574, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to claims against the United States presented to the Secretary of Defense under section 3702 of title 31, United States Code, on or after the date of the enactment of this Act [Dec. 2, 2002]."

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-86 effective 6 months after Aug. 10, 1987, or on such later date as the Secretary of the Treasury may prescribe in regulations, see section 1006 of Pub. L. 100-86, set out as a note under section 3328 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment effective Sept. 13, 1982, see section 2(i) of Pub. L. 97-452, set out as a note under section 3331 of this title.

REGULATIONS

For provision permitting Secretary of the Treasury to prescribe rules, regulations, and procedures as necessary to implement amendment by section 1004(b) of Pub. L. 100-86, including recertification of Treasury checks which have been canceled or for which a claim has been asserted or barred, see section 1005 of Pub. L. 100-86, set out as a note under section 3328 of this title.

SUBCHAPTER II—CLAIMS OF THE UNITED STATES GOVERNMENT

§ 3711. Collection and compromise

(a) The head of an executive, judicial, or legislative agency—

(1) shall try to collect a claim of the United States Government for money or property arising out of the activities of, or referred to, the agency;

(2) may compromise a claim of the Government of not more than \$100,000 (excluding interest) or such higher amount as the Attorney General may from time to time prescribe that has not been referred to another executive or legislative agency for further collection action, except that only the Comptroller General may compromise a claim arising out of an exception the Comptroller General makes in the account of an accountable official; and

(3) may suspend or end collection action on a claim referred to in clause (2) of this subsection when it appears that no person liable on the claim has the present or prospective ability to pay a significant amount of the claim or the cost of collecting the claim is likely to be more than the amount recovered.

(b)(1) The head of an executive, judicial, or legislative agency may not act under subsection (a)(2) or (3) of this section on a claim that appears to be fraudulent, false, or misrepresented by a party with an interest in the claim, or that is based on conduct in violation of the antitrust laws.

(2) The Secretary of Transportation may not compromise for less than \$500 a penalty under section 21302 of title 49 for a violation of chapter 203, 205, or 207 of title 49 or a regulation or requirement prescribed or order issued under any of those chapters.

(c) A compromise under this section is final and conclusive unless gotten by fraud, misrepresentation, presenting a false claim, or mutual mistake of fact. An accountable official is not liable for an amount paid or for the value of property lost or damaged if the amount or value is not recovered because of a compromise under this section.

(d) The head of an executive, judicial, or legislative agency acts under—

(1) regulations prescribed by the head of the agency; and

(2) standards that the Attorney General, the Secretary of the Treasury, may prescribe.¹

(e)(1) When trying to collect a claim of the Government under a law except the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.), the head of an executive, judicial, or legislative agency shall disclose to a consumer reporting

¹ So in original. Probably should be "Attorney General and the Secretary of the Treasury may prescribe jointly."

agency information from a system of records that a person is responsible for a claim if—

(A) notice required by section 552a(e)(4) of title 5 indicates that information in the system may be disclosed to a consumer reporting agency;

(B) the head of the agency has reviewed the claim and decided that the claim is valid and overdue;

(C) the head of the agency has notified the person in writing—

(i) that payment of the claim is overdue;

(ii) that, within not less than 60 days after sending the notice, the head of the agency intends to disclose to a consumer reporting agency that the person is responsible for the claim;

(iii) of the specific information to be disclosed to the consumer reporting agency; and

(iv) of the rights the person has to a complete explanation of the claim, to dispute information in the records of the agency about the claim, and to administrative repeal or review of the claim;

(D) the person has not—

(i) repaid or agreed to repay the claim under a written repayment plan that the person has signed and the head of the agency has agreed to; or

(ii) filed for review of the claim under paragraph (2) of this subsection;

(E) the head of the agency has established procedures to—

(i) disclose promptly, to each consumer reporting agency to which the original disclosure was made, a substantial change in the condition or amount of the claim;

(ii) verify or correct promptly information about the claim on request of a consumer reporting agency for verification of information disclosed; and

(iii) get satisfactory assurances from each consumer reporting agency that the agency is complying with all laws of the United States related to providing consumer credit information; and

(F) the information disclosed to the consumer reporting agency is limited to—

(i) information necessary to establish the identity of the person, including name, address, and taxpayer identification number;

(ii) the amount, status, and history of the claim; and

(iii) the agency or program under which the claim arose.

(2) Before disclosing information to a consumer reporting agency under paragraph (1) of this subsection and at other times allowed by law, the head of an executive, judicial, or legislative agency shall provide, on request of a person alleged by the agency to be responsible for the claim, for a review of the obligation of the person, including an opportunity for reconsideration of the initial decision on the claim.

(3) Before disclosing information to a consumer reporting agency under paragraph (1) of this subsection, the head of an executive, judicial, or legislative agency shall take reasonable

action to locate a person for whom the head of the agency does not have a current address to send the notice under paragraph (1)(C).

(4) The head of each executive agency shall require, as a condition for insuring or guaranteeing any loan, financing, or other extension of credit under any law to a person, that the lender provide information relating to the extension of credit to consumer reporting agencies or commercial reporting agencies, as appropriate.

(5) The head of each executive agency may provide to a consumer reporting agency or commercial reporting agency information from a system of records that a person is responsible for a claim which is current, if notice required by section 552a(e)(4) of title 5 indicates that information in the system may be disclosed to a consumer reporting agency or commercial reporting agency, respectively.

(f)(1) The Secretary of Defense may suspend or terminate an action by the Secretary or by the Secretary of a military department under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

(2) The Secretary of Homeland Security may suspend or terminate an action by the Secretary under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Coast Guard if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

(3) The Secretary of Veterans Affairs may suspend or terminate an action by the Secretary under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

(4) In this subsection, the term “active duty” has the meaning given that term in section 101 of title 10.

(g)(1) If a nontax debt or claim owed to the United States has been delinquent for a period of 180 days—

(A) the head of the executive, judicial, or legislative agency that administers the program that gave rise to the debt or claim shall transfer the debt or claim to the Secretary of the Treasury; and

(B) upon such transfer the Secretary of the Treasury shall take appropriate action to collect or terminate collection actions on the debt or claim.

(2) Paragraph (1) shall not apply—

(A) to any debt or claim that—

(i) is in litigation or foreclosure;

(ii) will be disposed of under an asset sales program within 1 year after becoming eligible for sale, or later than 1 year if consistent

with an asset sales program and a schedule established by the agency and approved by the Director of the Office of Management and Budget;

(iii) has been referred to a private collection contractor for collection for a period of time determined by the Secretary of the Treasury;

(iv) has been referred by, or with the consent of, the Secretary of the Treasury to a debt collection center for a period of time determined by the Secretary of the Treasury; or

(v) will be collected under internal offset, if such offset is sufficient to collect the claim within 3 years after the date the debt or claim is first delinquent; and

(B) to any other specific class of debt or claim, as determined by the Secretary of the Treasury at the request of the head of an executive, judicial, or legislative agency or otherwise.

(3) For purposes of this section, the Secretary of the Treasury may designate, and withdraw such designation of debt collection centers operated by other Federal agencies. The Secretary of the Treasury shall designate such centers on the basis of their performance in collecting delinquent claims owed to the Government.

(4) At the discretion of the Secretary of the Treasury, referral of a nontax claim may be made to—

(A) any executive department or agency operating a debt collection center for servicing, collection, compromise, or suspension or termination of collection action;

(B) a private collection contractor operating under a contract for servicing or collection action; or

(C) the Department of Justice for litigation.

(5) Nontax claims referred or transferred under this section shall be serviced, collected, or compromised, or collection action thereon suspended or terminated, in accordance with otherwise applicable statutory requirements and authorities. Executive departments and agencies operating debt collection centers may enter into agreements with the Secretary of the Treasury to carry out the purposes of this subsection. The Secretary of the Treasury shall—

(A) maintain competition in carrying out this subsection;

(B) maximize collections of delinquent debts by placing delinquent debts quickly;

(C) maintain a schedule of private collection contractors and debt collection centers eligible for referral of claims; and

(D) refer delinquent debts to the person most appropriate to collect the type or amount of claim involved.

(6) Any agency operating a debt collection center to which nontax claims are referred or transferred under this subsection may charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the nontax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this

subsection. Agencies may agree to pay through a different method, or to fund an activity from another account or from revenue received from the procedure described under section 3720C of this title. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

(7) Notwithstanding any other law concerning the depositing and collection of Federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (in this subsection referred to in this section² as the "Account"). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of Governmentwide debt collection activities. Costs properly chargeable to the Account include—

(A) the costs of computer hardware and software, word processing and telecommunications equipment, and other equipment, supplies, and furniture;

(B) personnel training and travel costs;

(C) other personnel and administrative costs;

(D) the costs of any contract for identification, billing, or collection services; and

(E) reasonable costs incurred by the Secretary of the Treasury, including services and utilities provided by the Secretary, and administration of the Account.

(8) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year, minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

(9) Before discharging any delinquent debt owed to any executive, judicial, or legislative agency, the head of such agency shall take all appropriate steps to collect such debt, including (as applicable)—

(A) administrative offset,

(B) tax refund offset,

(C) Federal salary offset,

(D) referral to private collection contractors,

(E) referral to agencies operating a debt collection center,

(F) reporting delinquencies to credit reporting bureaus,

(G) garnishing the wages of delinquent debtors, and

(H) litigation or foreclosure.

(10) To carry out the purposes of this subsection, the Secretary of the Treasury may prescribe such rules, regulations, and procedures as

² So in original.

the Secretary considers necessary and transfer such funds from funds appropriated to the Department of the Treasury as may be necessary to meet existing liabilities and obligations incurred prior to the receipt of revenues that result from debt collections.

(h)(1) The head of an executive, judicial, or legislative agency acting under subsection (a)(1), (2), or (3) of this section to collect a claim, compromise a claim, or terminate collection action on a claim may obtain a consumer report (as that term is defined in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a)) or comparable credit information on any person who is liable for the claim.

(2) The obtaining of a consumer report under this subsection is deemed to be a circumstance or purpose authorized or listed under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).

(i)(1) The head of an executive, judicial, or legislative agency may sell, subject to section 504(b) of the Federal Credit Reform Act of 1990 and using competitive procedures, any nontax debt owed to the United States that is delinquent for more than 90 days. Appropriate fees charged by a contractor to assist in the conduct of a sale under this subsection may be payable from the proceeds of the sale.

(2) After terminating collection action, the head of an executive, judicial, or legislative agency shall sell, using competitive procedures, any nontax debt or class of nontax debts owed to the United States, if the Secretary of the Treasury determines the sale is in the best interests of the United States.

(3) Sales of nontax debt under this subsection—

(A) shall be for—

(i) cash, or

(ii) cash and a residuary equity or profit participation, if the head of the agency reasonably determines that the proceeds will be greater than sale solely for cash,

(B) shall be without recourse, but may include the use of guarantees if otherwise authorized, and

(C) shall transfer to the purchaser all rights of the Government to demand payment of the nontax debt, other than with respect to a residuary equity or profit participation under subparagraph (A)(ii).

(4)(A) Within one year after the date of enactment of the Debt Collection Improvement Act of 1996, each executive agency with current and delinquent collateralized nontax debts shall report to the Congress on the valuation of its existing portfolio of loans, notes and guarantees, and other collateralized debts based on standards developed by the Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury.

(B) The Director of the Office of Management and Budget shall determine what information is required to be reported to comply with subparagraph (A). At a minimum, for each financing account and for each liquidating account (as those terms are defined in sections 502(7) and 502(8), respectively, of the Federal Credit Reform Act of 1990) the following information shall be reported:

(i) The cumulative balance of current debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

(ii) The cumulative balance of delinquent debts, debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

(iii) The cumulative balance of guaranteed loans outstanding, the estimated net present value of such guarantees, the annual administrative expenses of such guarantees (including the portion of salaries and expenses that are directly related to such guaranteed loans), and the estimated net proceeds that would be received by the Government if such loan guarantees were sold.

(iv) The cumulative balance of defaulted loans that were previously guaranteed and have resulted in loans receivables, the estimated net present value of such loan assets, the annual administrative expenses of such loan assets (including the portion of salaries and expenses that are directly related to such loan assets), and the estimated net proceeds that would be received by the Government if such loan assets were sold.

(v) The marketability of all debts.

(5) This subsection is not intended to limit existing statutory authority of agencies to sell loans, debts, or other assets.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 971; Pub. L. 97-452, §1(15), Jan. 12, 1983, 96 Stat. 2470; Pub. L. 98-216, §1(5), Feb. 14, 1984, 98 Stat. 4; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101-552, §8(b), Nov. 15, 1990, 104 Stat. 2746; Pub. L. 102-365, §4(a)(4), Sept. 3, 1992, 106 Stat. 973; Pub. L. 103-272, §5(i)(1), July 5, 1994, 108 Stat. 1375; Pub. L. 104-106, div. A, title X, §1089, Feb. 10, 1996, 110 Stat. 459; Pub. L. 104-134, title III, §31001(c)(1), (g)(1)(C), (k), (m)(1), (p), Apr. 26, 1996, 110 Stat. 1321-359, 1321-363, 1321-365, 1321-366, 1321-371; Pub. L. 104-201, div. A, title X, §1010, Sept. 23, 1996, 110 Stat. 2635; Pub. L. 104-316, title I, §115(g)(1), Oct. 19, 1996, 110 Stat. 3834; Pub. L. 109-241, title IX, §902(b)(4), July 11, 2006, 120 Stat. 566; Pub. L. 110-389, title VIII, §801(a), Oct. 10, 2008, 122 Stat. 4185.)

HISTORICAL AND REVISION NOTES
1982 ACT

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3711(a)	31:952(a)(less words between 1st and 2d commas), (b)(1st sentence less words between 6th and 7th commas).	July 19, 1966, Pub. L. 89-508, §3, 80 Stat. 309.
3711(b)	31:952(b)(2d sentence, last sentence words after semicolon).	
3711(c)(1)	31:952(b)(last sentence words before semicolon).	

HISTORICAL AND REVISION NOTES—CONTINUED
1982 ACT

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3711(c)(2)	31:952(note).	July 8, 1976, Pub. L. 94-348, §3(e), 90 Stat. 818.
3711(d)	31:952(c).	
3711(e)	31:952(a)(words between 1st and 2d commas), (b)(1st sentence words between 6th and 7th commas).	

In the section, the words “executive or legislative agency” are substituted for “agency” because of the re-statement. The words “or his designee” are omitted as unnecessary.

In subsection (a), the word “Government” is added for consistency. In clause (2), the words “including the General Accounting Office” are omitted as surplus. In clause (3), the word “financial” is omitted as surplus.

In subsections (b) and (d), the word “official” is substituted for “officer” for consistency.

In subsection (b), the words “Comptroller General” are substituted for “General Accounting Office” for consistency. The words “has the same authority that the head of the agency has” are substituted for “have the foregoing authority” for clarity. The words “by another agency” are omitted as surplus. The words “only . . . may compromise” are substituted for “nor shall the head of an agency, other than . . . have authority to compromise” to eliminate unnecessary words.

In subsection (c)(1), the words “that appears to be fraudulent, false, or misrepresented by” are substituted for “as to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of” to eliminate unnecessary words. The words “the debtor or . . . other” and “in whole or in part” are omitted as surplus.

In subsection (c)(2), the words “Notwithstanding any provision of the Federal Claims Collection Act of 1966” are omitted as unnecessary. The words “arising” and “an amount” are omitted as surplus.

In subsection (d), the words “. . . authority conferred by”, “on the debtor and on all officials, agencies, and courts of the United States”, “destroyed”, and “with a person primarily responsible” are omitted as surplus.

In subsection (e), the words “in conformity with” are omitted as surplus.

1983 ACT

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3711(f)(1)	31 App.:952(d)(1).	July 19, 1966, Pub. L. 89-508, 80 Stat. 308, §3(d)(1)-(3); added Oct. 25, 1982, Pub. L. 97-365, §3, 96 Stat. 1749.
3711(f)(2)	31 App.:952(d)(2).	
3711(f)(3)	31 App.:952(d)(3).	

In subsection (f)(1), before clause (A), the word “Government” is substituted for “United States” for consistency in the revised title and with other titles of the United States Code. The words “subsection (a) of this section, or under any other” are omitted as surplus. The word “law” is substituted for “statutory authority” to eliminate unnecessary words. In clause (A), the words “for the system of records” are omitted as surplus. In clause (C)(iii), the word “intended” is omitted as surplus. In clause (E)(ii), the words “as appropriate” and “any or all” are omitted as surplus. In clause (E)(iii), the words “all laws of the United States” are coextensive with and substituted for “the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and any other Federal law”.

1984 ACT

This is necessary to reflect the transfer of the non-positive law provisions of title 49 to title 49 appendix.

REFERENCES IN TEXT

Sections 502(7), 502(8), and 504(b) of the Federal Credit Reform Act of 1990, referred to in subsec. (i)(1), (4)(B), are classified to sections 661a(7), 661a(8), and 661c(b), respectively, of Title 2, The Congress.

The date of enactment of the Debt Collection Improvement Act of 1996, referred to in subsec. (i)(4)(A), is the date of enactment of section 31001 of Pub. L. 104-134, which was approved Apr. 26, 1996.

AMENDMENTS

2008—Subsec. (f)(3), (4). Pub. L. 110-389 added par. (3) and redesignated former par. (3) as (4).

2006—Subsec. (f)(2). Pub. L. 109-241 substituted “Secretary of Homeland Security” for “Secretary of Transportation”.

1996—Subsec. (a). Pub. L. 104-134, §31001(c)(1), which directed that this section be amended by substituting “the head of an executive, judicial, or legislative agency” for “the head of an executive or legislative agency” wherever appearing, was executed in introductory provisions by substituting “The head of an executive, judicial, or legislative agency” for “The head of an executive or legislative agency”, to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 104-316, §115(g)(1)(A), inserted “, except that only the Comptroller General may compromise a claim arising out of an exception the Comptroller General makes in the account of an accountable official” before “; and” at end.

Subsec. (b). Pub. L. 104-316, §115(g)(1)(B), (C), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “The Comptroller General has the same authority that the head of the agency has under subsection (a) of this section when the claim is referred to the Comptroller General for further collection action. Only the Comptroller General may compromise a claim arising out of an exception the Comptroller General makes in the account of an accountable official.”

Subsec. (c). Pub. L. 104-316, §115(g)(1)(C), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1). Pub. L. 104-134, §31001(c)(1), which directed that this section be amended by substituting “the head of an executive, judicial, or legislative agency” for “the head of an executive or legislative agency” wherever appearing, was executed by substituting “The head of an executive, judicial, or legislative agency” for “The head of an executive or legislative agency”, to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 104-316, §115(g)(1)(C), (D), redesignated subsec. (e) as (d) and in par. (2) struck out “and the Comptroller General” before “may prescribe” and “jointly” after “prescribe”. Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 104-316, §115(g)(1)(C), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Pub. L. 104-134, §31001(c)(1), which directed that this section be amended by substituting “the head of an executive, judicial, or legislative agency” for “the head of an executive or legislative agency” wherever appearing, was executed in introductory provisions by substituting “The head of an executive, judicial, or legislative agency” for “The head of an executive or legislative agency”, to reflect the probable intent of Congress.

Subsec. (e)(2). Pub. L. 104-134, §31001(g)(1)(C), inserted “, the Secretary of the Treasury,” after “Attorney General”.

Subsec. (f). Pub. L. 104-316, §115(g)(1)(C), redesignated the subsec. (g), relating to authority to suspend or terminate collection actions against deceased members, as (f). Former subsec. (f) redesignated (e).

Subsec. (f)(1). Pub. L. 104-134, §31001(c)(1), (k)(1), (2), in introductory provisions substituted “the head of an executive, judicial, or legislative agency shall” for “the head of an executive or legislative agency may” and “a person” for “an individual”.

Subsec. (f)(1)(C), (D), (F). Pub. L. 104-134, §31001(k)(3), substituted “the person” for “the individual” wherever appearing.

Subsec. (f)(2). Pub. L. 104-134, §31001(c)(1), (k)(2), (3), substituted “the head of an executive, judicial, or legislative agency” for “the head of an executive or legislative agency”, “a person” for “an individual”, and “the person” for “the individual”.

Subsec. (f)(3). Pub. L. 104-134, §31001(c)(1), (k)(2), substituted “the head of an executive, judicial, or legislative agency” for “the head of an executive or legislative agency” and “a person” for “an individual”.

Subsec. (f)(4), (5). Pub. L. 104-134, §31001(k)(4), added pars. (4) and (5).

Subsec. (g). Pub. L. 104-316, §115(g)(1)(C), redesignated the subsec. (g), relating to authority to suspend or terminate collection actions against deceased members, as (f).

Pub. L. 104-134, §31001(m)(1), added subsec. (g) relating to transfer of debt or claim to Secretary of the Treasury in case of delinquency.

Pub. L. 104-106 added subsec. (g) relating to authority to suspend or terminate collection actions against deceased members.

Subsec. (g)(1). Pub. L. 104-201, §1010(1), substituted “Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy” for “or Marine Corps”.

Subsec. (g)(2), (3). Pub. L. 104-201, §1010(2), (3), added par. (2) and redesignated former par. (2) as (3).

Subsec. (h). Pub. L. 104-134, §31001(m)(1), added subsec. (h).

Subsec. (i). Pub. L. 104-134, §31001(p), added subsec. (i).

1994—Subsec. (c)(2). Pub. L. 103-272 substituted “section 21302 of title 49 for a violation of chapter 203, 205, or 207 of title 49 or a regulation or requirement prescribed or order issued under any of those chapters” for “section 6 of the Act of March 2, 1893 (45 U.S.C. 6), section 4 of the Act of April 14, 1910 (45 U.S.C. 13), section 9 of the Act of February 17, 1911 (45 U.S.C. 34), and section 25(h) of the Interstate Commerce Act (49 App. U.S.C. 26(h))”.

1992—Subsec. (c)(2). Pub. L. 102-365 substituted “\$500” for “\$250”.

1990—Subsec. (a)(2). Pub. L. 101-552 substituted “\$100,000 (excluding interest) or such higher amount as the Attorney General may from time to time prescribe” for “\$20,000 (excluding interest)”.

1986—Subsec. (f)(1). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

1984—Subsec. (c)(2). Pub. L. 98-216 substituted “(49 App. U.S.C. 26(h))” for “(49 U.S.C. 26(h))”.

1983—Subsec. (f). Pub. L. 97-452 added subsec. (f).

SAVINGS PROVISION

Section 31001(n) of Pub. L. 104-134 provided that: “Effective October 1, 1995, section 11 of the Administrative Dispute Resolution Act (Public Law 101-552, [former] 5 U.S.C. 571 note) shall not apply to the amendment made by section 8(b) of such Act [amending this section].”

GUIDELINES

Section 31001(aa)(1) of Pub. L. 104-134 provided that: “The Secretary of the Treasury, in consultation with concerned Federal agencies, may establish guidelines, including information on outstanding debt, to assist agencies in the performance and monitoring of debt collection activities.”

REPORT

Section 31001(aa)(2) of Pub. L. 104-134 provided that: “Not later than 3 years after the date of enactment of this Act [Apr. 26, 1996], the Secretary of the Treasury shall report to the Congress on collection services provided by Federal agencies or entities collecting debt on behalf of other Federal agencies under the authorities contained in section 3711(g) of title 31, United States Code, as added by subsection (m) of this section.”

STANDARDS AND POLICIES FOR COMPROMISING, WRITING-DOWN, FORGIVING, OR DISCHARGING INDEBTEDNESS

Section 31001(bb) of Pub. L. 104-134 provided that: “The Director of the Office of Management and Budget shall—

“(1) review the standards and policies of each Federal agency for compromising, writing-down, forgiving, or discharging indebtedness arising from programs of the agency;

“(2) determine whether those standards and policies are consistent and protect the interests of the United States;

“(3) in the case of any Federal agency standard or policy that the Director determines is not consistent or does not protect the interests of the United States, direct the head of the agency to make appropriate modifications to the standard or policy; and

“(4) report annually to the Congress on—

“(A) deficiencies in the standards and policies of Federal agencies for compromising, writing-down, forgiving, or discharging indebtedness; and

“(B) progress made in improving those standards and policies.”

EXISTING AGENCY AUTHORITY TO LITIGATE, SETTLE, COMPROMISE, OR CLOSE CLAIMS

Pub. L. 89-508, §4, July 19, 1966, 80 Stat. 309, provided that: “Nothing in this Act [now this section] shall increase or diminish the existing authority of the head of an agency to litigate claims, or diminish his existing authority to settle, compromise, or close claims.”

§3712. Time limitations for presenting certain claims of the Government

(a) CLAIMS OVER FORGED OR UNAUTHORIZED ENDORSEMENTS.—

(1) PERIOD FOR CLAIMS.—If the Secretary of the Treasury determines that a Treasury check has been paid over a forged or unauthorized endorsement, the Secretary may reclaim the amount of such check from the presenting bank or any other endorser that has breached its guarantee of endorsements prior to—

(A) the end of the 1-year period beginning on the date of payment; or

(B) the expiration of the 180-day period beginning on the close of the period described in subparagraph (A) if a timely claim is received under section 3702.

(2) CIVIL ACTIONS.—(A) Except as provided in subparagraph (B), the United States may bring a civil action to enforce the liability of an endorser, transferor, depository, or fiscal agent on a forged or unauthorized signature or endorsement on, or a change in, a check or warrant issued by the Secretary of the Treasury, the United States Postal Service, or any disbursing official or agent not later than 1 year after a check or warrant is presented to the drawee for payment.

(B) If the United States has given an endorser written notice of a claim against the endorser within the time allowed by subparagraph (A), the 1-year period for bringing a civil action on that claim under subparagraph (A) shall be extended by 3 years.

(3) EFFECT ON AGENCY AUTHORITY.—Nothing in this subsection shall be construed to limit the authority of any agency under subchapter II of chapter 37 of this title.

(b) Notwithstanding subsection (a) of this section, a civil action may be brought within 2 years after the claim is discovered when an en-

dorser, transferor, depository, or fiscal agent fraudulently conceals the claim from an officer or employee of the Government entitled to bring the civil action.

(c) The Comptroller General shall credit the appropriate account of the Treasury for the amount of a check or warrant for which a civil action cannot be brought because notice was not given within the time required under subsection (a) of this section if the failure to give notice was not the result of negligence of the Secretary.

(d) The Government waives all claims against a person arising from dual pay from the Government if the dual pay is not reported to the Comptroller General for collection within 6 years from the last date of a period of dual pay.

(e) TREASURY CHECK OFFSET.—

(1) IN GENERAL.—To facilitate collection of amounts owed by presenting banks pursuant to subsection (a) or (b), upon the direction of the Secretary, a Federal reserve bank shall withhold credit from banks presenting Treasury checks for ultimate charge to the account of the United States Treasury. By presenting Treasury checks for payment a presenting bank is deemed to authorize this offset.

(2) ATTEMPT TO COLLECT REQUIRED.—Prior to directing offset under subsection (a)(1), the Secretary shall first attempt to collect amounts owed in the manner provided by sections 3711 and 3716.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 971; Pub. L. 100-86, title X, § 1004(a), Aug. 10, 1987, 101 Stat. 659; Pub. L. 104-134, title III, § 31001(d)(4), Apr. 26, 1996, 110 Stat. 1321-362.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3712(a)	31:129.	Mar. 6, 1946, ch. 48, § 1, 60 Stat. 31; Aug. 28, 1957, Pub. L. 85-183, § 3(b), 71 Stat. 465; Aug. 12, 1970, Pub. L. 91-375, § 6(i)(2), 84 Stat. 782.
3712(b)	31:131.	Mar. 6, 1946, ch. 48, §§ 2, 3, 60 Stat. 31.
3712(c)	31:130.	
3712(d)	31:237a.	Aug. 28, 1954, ch. 1035, 68 Stat. 890.

In the section, the words “Comptroller General” are substituted for “General Accounting Office” for consistency.

In subsection (a), the words “civil action” are substituted for “proceeding in any court”, “court proceeding”, and “proceeding”, and the word “fiscal” is substituted for “financial”, for consistency in the revised title and with other titles of the United States Code. The words “Except as provided in this subsection” are added for clarity. The words “or by an agency or official of the United States” are omitted as surplus. The words “the Postmaster General” are omitted because of section 4(a) of the Postal Reorganization Act (Pub. L. 91-375, 84 Stat. 773). The words “the Treasurer and Assistant Treasurers of the United States” are omitted because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280). The word “official” is substituted for “officers” for consistency in the revised title and with other titles of the Code. The words “of the United States”, “to the Treasurer of the United States or other drawee”, and “of such check, checks, warrant, or warrants” are omitted as surplus. The text of 31:129(last sentence less proviso) is omitted as unnecessary. The last sentence is sub-

stituted for 31:129(last sentence proviso) to eliminate unnecessary words.

In subsection (b), the words “at any time” in 31:131 are omitted as surplus. The words “the claim is discovered” are substituted for “the United States or any agency or official of the United States who is entitled to bring the same shall discover that the United States or any agency or official of the United States had such cause of action” to eliminate unnecessary words. The words “who is liable to any of the actions mentioned in sections 129 to 131 of this title” are omitted as surplus. The words “officer or employee of the Government” are substituted for “United States or any agency or official of the United States” before “entitled” for consistency in the revised title and with other titles of the Code. The words “although such action would be otherwise barred by the provisions of sections 129 to 131 of this title” are omitted as surplus.

In subsection (c), the words “of the United States” and “allow . . . in” are omitted as surplus. The word “appropriate” is added for clarity. The word “Treasury” is substituted for “Treasurer of the United States” before “for the amount” because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280). The words “cannot be brought because notice was not given within the time required under this subsection” are substituted for “shall have been barred pursuant to the provisions of sections 129 to 131 of this title upon a showing that the barring of such proceedings . . . required by the provision of section 129 of this title” for clarity. The word “Secretary” is substituted for “Treasurer of the United States” before “in failing” because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974.

In subsection (d), the words “arising from dual pay” are substituted for “arising out of the receipt by such person of compensation . . . in violation of any provision of law prohibiting or restricting the receipt of dual compensation” to eliminate unnecessary words and for consistency in the revised title and with other titles of the Code. The words “including Government owned or controlled corporations” are omitted as unnecessary. The words “or from the government of the District of Columbia” are omitted because of sections 102(a), 448, 449, and 761 of the District of Columbia Self-Government and Governmental Reorganization Act (Pub. L. 93-198, 87 Stat. 777, 801, 836).

AMENDMENTS

1996—Subsec. (e). Pub. L. 104-134 added subsec. (e).

1987—Subsec. (a). Pub. L. 100-86 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Except as provided in this subsection, the United States Government must bring a civil action to enforce the liability of an endorser, transferor, depository, or fiscal agent on a forged or unauthorized signature or endorsement on, or a change in, a check or warrant issued by the Secretary of the Treasury, the United States Postal Service, or a disbursing official or agent within 6 years after the check or warrant is presented to the drawee of the check or warrant for payment unless, within that period, written notice of the claim is given to the endorser, transferor, depository, or fiscal agent. The period for bringing a civil action or giving notice is extended for 180 days if a claim is received under section 3702(c) of this title.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-86 effective 6 months after Aug. 10, 1987, or on such later date as the Secretary of the Treasury may prescribe in regulations, see section 1006 of Pub. L. 100-86, set out as a note under section 3328 of this title.

REGULATIONS

For provision permitting Secretary of the Treasury to prescribe rules, regulations, and procedures as nec-

essary to implement amendment by section 1004(a) of Pub. L. 100-86, including recertification of Treasury checks which have been canceled or for which a claim has been asserted or barred, see section 1005 of Pub. L. 100-86, set out as a note under section 3328 of this title.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 972.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3714	31:207.	R.S. §3481.

§ 3713. Priority of Government claims

(a)(1) A claim of the United States Government shall be paid first when—

(A) a person indebted to the Government is insolvent and—

(i) the debtor without enough property to pay all debts makes a voluntary assignment of property;

(ii) property of the debtor, if absent, is attached; or

(iii) an act of bankruptcy is committed; or

(B) the estate of a deceased debtor, in the custody of the executor or administrator, is not enough to pay all debts of the debtor.

(2) This subsection does not apply to a case under title 11.

(b) A representative of a person or an estate (except a trustee acting under title 11) paying any part of a debt of the person or estate before paying a claim of the Government is liable to the extent of the payment for unpaid claims of the Government.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 972.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3713(a)	31:191.	R.S. §3466; Nov. 6, 1978, Pub. L. 95-598, §322(a), 92 Stat. 2678.
3713(b)	31:192.	R.S. §3467; restated May 10, 1934, ch. 277, §518(a), 48 Stat. 760; Nov. 6, 1978, Pub. L. 95-598, §322(b), 92 Stat. 2679.

In the section, the word “claim” is substituted for “debts” for consistency. The word “due” is omitted as unnecessary.

In subsection (a)(1), before clause (A), the word “paid” is substituted for “satisfied” for consistency. In clause (A)(i), the words “and the priority established shall extend as well to cases in which” are omitted because of the restatement. In clause (A)(ii), the word “property” is substituted for “estate and effects” to eliminate unnecessary words. The words “absconding, concealed, or” and “by process of law” are omitted as surplus.

In subsection (a)(2), the words “The priority established under . . . however” are omitted as surplus.

In subsection (b), the words “A representative of a person or an estate” are substituted for “executor, administrator, or assignee, or other” for clarity and to eliminate unnecessary words. The words “for whom or for which he acts”, “satisfies and”, and “from such person or estate” are omitted as surplus. The word “liable” is substituted for “answerable in his own person and estate” for consistency.

§ 3714. Keeping money due States in default

The Secretary of the Treasury shall keep the necessary amount of money the United States Government owes a State when the State defaults in paying principal or interest on investments in stocks or bonds the State issues or guarantees and that the Government holds in trust. The money shall be used to pay the principal or interest or reimburse, with interest, money the Government advanced for interest due on the stocks or bonds.

The word “amount” is substituted for “whole, or so much thereof” for clarity. The word “owes” is substituted for “due on any account from the . . . to” to eliminate unnecessary words. The words “or either” and “thereon” are omitted as surplus.

§ 3715. Buying real property of a debtor

The head of an agency for whom a civil action is brought against a debtor of the United States Government may buy real property of the debtor at a sale on execution of the real property of the debtor resulting from the action. The head of the agency may not bid more for the property than the amount of the judgment for which the property is being sold, and costs. The marshal of the district in which the sale is held shall transfer the property to the Government.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 972.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3715	31:195.	R.S. §3470; June 2, 1965, Pub. L. 89-30, §5, 79 Stat. 119.

The words “by such agent as . . . shall appoint” are omitted as unnecessary. The word “agency” is substituted for “department or independent agency” because of the restatement. The words “for whom a civil action is brought” are substituted for “at whose instance suit was instituted” for consistency. The words “real property” are substituted for “lands or tenements” for clarity and consistency. The words “in behalf of the United States” are omitted as surplus. The words “for the property” are added for clarity. The word “property” is substituted for “such estate” for consistency in the section. The words “Whenever such purchase is made” are omitted as surplus. The words “transfer the property” are substituted for “make all needful conveyances, assignments, or transfers” to eliminate unnecessary words and for clarity.

§ 3716. Administrative offset

(a) After trying to collect a claim from a person under section 3711(a) of this title, the head of an executive, judicial, or legislative agency may collect the claim by administrative offset. The head of the agency may collect by administrative offset only after giving the debtor—

(1) written notice of the type and amount of the claim, the intention of the head of the agency to collect the claim by administrative offset, and an explanation of the rights of the debtor under this section;

(2) an opportunity to inspect and copy the records of the agency related to the claim;

(3) an opportunity for a review within the agency of the decision of the agency related to the claim; and

(4) an opportunity to make a written agreement with the head of the agency to repay the amount of the claim.

(b) Before collecting a claim by administrative offset, the head of an executive, judicial, or legislative agency must either—

(1) adopt, without change, regulations on collecting by administrative offset promulgated by the Department of Justice, the Government Accountability Office, or the Department of the Treasury; or

(2) prescribe regulations on collecting by administrative offset consistent with the regulations referred to in paragraph (1).

(c)(1)(A) Except as otherwise provided in this subsection, a disbursing official of the Department of the Treasury, the Department of Defense, the United States Postal Service, the Department of Health and Human Services, or any other government corporation, or any disbursing official of the United States designated by the Secretary of the Treasury, shall offset at least annually the amount of a payment which a payment certifying agency has certified to the disbursing official for disbursement, by an amount equal to the amount of a claim which a creditor agency has certified to the Secretary of the Treasury pursuant to this subsection.

(B) An agency that designates disbursing officials pursuant to section 3321(c) of this title is not required to certify claims arising out of its operations to the Secretary of the Treasury before such agency's disbursing officials offset such claims.

(C) Payments certified by the Department of Education under a program administered by the Secretary of Education under title IV of the Higher Education Act of 1965 shall not be subject to administrative offset under this subsection.

(2) Neither the disbursing official nor the payment certifying agency shall be liable—

(A) for the amount of the administrative offset on the basis that the underlying obligation, represented by the payment before the administrative offset was taken, was not satisfied; or

(B) for failure to provide timely notice under paragraph (8).

(3)(A)(i) Notwithstanding any other provision of law (including sections 207 and 1631(d)(1) of the Social Security Act (42 U.S.C. 407 and 1383(d)(1)), section 413(b) of Public Law 91-173 (30 U.S.C. 923(b)), and section 14 of the Act of August 29, 1935 (45 U.S.C. 231m)), except as provided in clause (ii), all payments due to an individual under—

(I) the Social Security Act,

(II) part B of the Black Lung Benefits Act,

or

(III) any law administered by the Railroad Retirement Board (other than payments that such Board determines to be tier 2 benefits),

shall be subject to offset under this section.

(ii) An amount of \$9,000 which a debtor may receive under Federal benefit programs cited under clause (i) within a 12-month period shall be exempt from offset under this subsection. In applying the \$9,000 exemption, the disbursing official shall—

(I) reduce the \$9,000 exemption amount for the 12-month period by the amount of all Federal benefit payments made during such 12-month period which are not subject to offset under this subsection; and

(II) apply a prorated amount of the exemption to each periodic benefit payment to be

made to the debtor during the applicable 12-month period.

For purposes of the preceding sentence, the amount of a periodic benefit payment shall be the amount after any reduction or deduction required under the laws authorizing the program under which such payment is authorized to be made (including any reduction or deduction to recover any overpayment under such program).

(B) The Secretary of the Treasury shall exempt from administrative offset under this subsection payments under means-tested programs when requested by the head of the respective agency. The Secretary may exempt other payments from administrative offset under this subsection upon the written request of the head of a payment certifying agency. A written request for exemption of other payments must provide justification for the exemption under standards prescribed by the Secretary. Such standards shall give due consideration to whether administrative offset would tend to interfere substantially with or defeat the purposes of the payment certifying agency's program. The Secretary shall report to the Congress annually on exemptions granted under this section.

(C) The provisions of sections 205(b)(1), 809(a)(1), and 1631(c)(1) of the Social Security Act shall not apply to any administrative offset executed pursuant to this section against benefits authorized by title II, VIII, or title XVI of the Social Security Act, respectively.

(D) This section shall apply to payments made after the date which is 90 days after the enactment of this subparagraph (or such earlier date as designated by the Secretary of Health and Human Services) with respect to claims or debts, and to amounts payable, under title XVIII of the Social Security Act.

(4) The Secretary of the Treasury may charge a fee sufficient to cover the full cost of implementing this subsection. The fee may be collected either by the retention of a portion of amounts collected pursuant to this subsection, or by billing the agency referring or transferring a claim for those amounts. Fees charged to the agencies shall be based on actual administrative offsets completed. Amounts received by the United States as fees under this subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of this title, and shall be collected and accounted for in accordance with the provisions of that section.

(5) The Secretary of the Treasury in consultation with the Commissioner of Social Security and the Director of the Office of Management and Budget, may prescribe such rules, regulations, and procedures as the Secretary of the Treasury considers necessary to carry out this subsection. The Secretary shall consult with the heads of affected agencies in the development of such rules, regulations, and procedures.

(6) Any Federal agency that is owed by a person a past due, legally enforceable nontax debt that is over 180 days delinquent, including nontax debt administered by a third party acting as an agent for the Federal Government, shall notify the Secretary of the Treasury of all such nontax debts for purposes of administrative offset under this subsection.

(7)(A) The disbursing official conducting an administrative offset with respect to a payment to a payee shall notify the payee in writing of—

- (i) the occurrence of the administrative offset to satisfy a past due legally enforceable debt, including a description of the type and amount of the payment otherwise payable to the payee against which the offset was executed;
- (ii) the identity of the creditor agency requesting the offset; and
- (iii) a contact point within the creditor agency that will handle concerns regarding the offset.

(B) If the payment to be offset is a periodic benefit payment, the disbursing official shall take reasonable steps, as determined by the Secretary of the Treasury, to provide the notice to the payee not later than the date on which the payee is otherwise scheduled to receive the payment, or as soon as practical thereafter, but no later than the date of the administrative offset. Notwithstanding the preceding sentence, the failure of the debtor to receive such notice shall not impair the legality of such administrative offset.

(8) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for administrative offset pursuant to other laws.

(d) Nothing in this section is intended to prohibit the use of any other administrative offset authority existing under statute or common law.

(e)(1) Notwithstanding any other provision of law, regulation, or administrative limitation, no limitation on the period within which an offset may be initiated or taken pursuant to this section shall be effective.

(2) This section does not apply when a statute explicitly prohibits using administrative offset or setoff to collect the claim or type of claim involved.

(f) The Secretary may waive the requirements of sections 552a(o) and (p) of title 5 for administrative offset or claims collection upon written certification by the head of a State or an executive, judicial, or legislative agency seeking to collect the claim that the requirements of subsection (a) of this section have been met.

(g) The Data Integrity Board of the Department of the Treasury established under 552a(u) of title 5 shall review and include in reports under paragraph (3)(D) of that section a description of any matching activities conducted under this section. If the Secretary has granted a waiver under subsection (f) of this section, no other Data Integrity Board is required to take any action under section 552a(u) of title 5.

(h)(1) The Secretary may, in the discretion of the Secretary, apply subsection (a) with respect to any past-due, legally-enforceable debt owed to a State if—

- (A) the appropriate State disbursing official requests that an offset be performed; and
- (B) a reciprocal agreement with the State is in effect which contains, at a minimum—
 - (i) requirements substantially equivalent to subsection (b) of this section; and
 - (ii) any other requirements which the Secretary considers appropriate to facilitate the offset and prevent duplicative efforts.

(2) This subsection does not apply to—

- (A) the collection of a debt or claim on which the administrative costs associated with the collection of the debt or claim exceed the amount of the debt or claim;
- (B) any collection of any other type, class, or amount of claim, as the Secretary considers necessary to protect the interest of the United States; or
- (C) the disbursement of any class or type of payment exempted by the Secretary of the Treasury at the request of a Federal agency.

(3) In applying this section with respect to any debt owed to a State, subsection (c)(3)(A) shall not apply.

(Added Pub. L. 97-452, §1(16)(A), Jan. 12, 1983, 96 Stat. 2471; amended Pub. L. 104-134, title III, §31001(c)(1), (d)(2), (e), (f), Apr. 26, 1996, 110 Stat. 1321-359, 1321-362; Pub. L. 106-169, title II, §251(b)(10), Dec. 14, 1999, 113 Stat. 1856; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110-234, title XIV, §14219(a), May 22, 2008, 122 Stat. 1482; Pub. L. 110-246, §4(a), title XIV, §14219(a), June 18, 2008, 122 Stat. 1664, 2244; Pub. L. 110-275, title I, §189(b), July 15, 2008, 122 Stat. 2590.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3716(a)	31 App.:954(a) (words before last comma), (c).	July 19, 1966, Pub. L. 89-508, 80 Stat. 308. §5(a)-(d); added Oct. 25, 1982, Pub. L. 97-365, §10(2), 96 Stat. 1754.
3716(b)	31 App.:954(b).	
3716(c)(1)	31 App.:954(a) (words after last comma).	
3716(c)(2)	31 App.:954(d).	

In the subchapter, the words “or his designee” are omitted as unnecessary.

In subsection (a)(1), the words “head of the” are added for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the word “Government” is added for consistency in the revised title and with other titles of the Code.

In subsection (b)(3), the word “civil” is added for consistency in the revised title and with other titles of the Code.

In subsection (c)(2), the word “either” is omitted as surplus.

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (c)(1)(C), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education, and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Social Security Act, referred to in subsec. (c)(3)(A)(i)(I), (C), (D), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. Titles II, VIII, XVI, and XVIII of the Act are classified generally to subchapters II (§401 et seq.), VIII (§1001 et seq.), XVI (§1381 et seq.), and XVIII (§1395 et seq.), respectively, of chapter 7 of Title 42. Sections 205(b)(1), 809(a)(1), and 1631(c)(1) of the Act are classified to sections 405(b)(1), 1009(a)(1), and 1383(c)(1), respectively, of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Black Lung Benefits Act, referred to in subsec. (c)(3)(A)(i)(II), is title IV of Pub. L. 91-173, Dec. 30, 1969,

83 Stat. 792, as amended. Part B of the Act is classified generally to part B (§921 et seq.) of subchapter IV of chapter 22 of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see section 901(b) of Title 30 and Tables.

The enactment of this subparagraph, referred to in subsec. (c)(3)(D), refers to the date of enactment of Pub. L. 110-275, which was approved July 15, 2008.

The Internal Revenue Code of 1986, referred to in subsec. (c)(8), is classified to Title 26, Internal Revenue Code.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (c)(1)(A). Pub. L. 110-275, §189(b)(1), inserted “the Department of Health and Human Services,” after “United States Postal Service.”

Subsec. (c)(3)(D). Pub. L. 110-275, §189(b)(2), added subpar. (D).

Subsec. (e). Pub. L. 110-246, §14219(a), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “This section does not apply—

“(1) to a claim under this subchapter that has been outstanding for more than 10 years; or

“(2) when a statute explicitly prohibits using administrative offset or setoff to collect the claim or type of claim involved.”

2004—Subsec. (b)(1). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

1999—Subsec. (c)(3)(C). Pub. L. 106-169 substituted “sections 205(b)(1), 809(a)(1),” for “sections 205(b)(1)” and “title II, VIII,” for “either title II”.

1996—Subsec. (a). Pub. L. 104-134, §31001(c)(1), substituted “the head of an executive, judicial, or legislative agency” for “the head of an executive or legislative agency” in introductory provisions.

Subsec. (b). Pub. L. 104-134, §31001(d)(2)(A), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Before collecting a claim by administrative offset under subsection (a) of this section, the head of an executive or legislative agency must prescribe regulations on collecting by administrative offset based on—

“(1) the best interests of the United States Government;

“(2) the likelihood of collecting a claim by administrative offset; and

“(3) for collecting a claim by administrative offset after the 6-year period for bringing a civil action on a claim under section 2415 of title 28 has expired, the cost effectiveness of leaving a claim unresolved for more than 6 years.”

Pub. L. 104-134, §31001(c)(1), substituted “the head of an executive, judicial, or legislative agency” for “the head of an executive or legislative agency” in introductory provisions.

Subsec. (c). Pub. L. 104-134, §31001(d)(2)(D), added subsec. (c). Former subsec. (c) redesignated (e).

Subsec. (c)(2). Pub. L. 104-134, §31001(d)(2)(B), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “when a statute explicitly provides for or prohibits using administrative offset to collect the claim or type of claim involved.”

Subsec. (d). Pub. L. 104-134, §31001(d)(2)(D), added subsec. (d).

Subsec. (e). Pub. L. 104-134, §31001(d)(2)(C), redesignated subsec. (c) as (e).

Subsecs. (f) to (h). Pub. L. 104-134, §31001(e), (f), added subsecs. (f) to (h).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-275, title I, §189(c), July 15, 2008, 122 Stat. 2591, provided that: “The amendments made by this

section [amending this section and section 1395kk of Title 42, The Public Health and Welfare] shall take effect on the date of the enactment of this Act [July 15, 2008].”

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Pub. L. 110-234, title XIV, §14219(b), May 22, 2008, 122 Stat. 1483, and Pub. L. 110-246, §4(a), title XIV, §14219(b), June 18, 2008, 122 Stat. 1664, 2245, provided that: “The amendment made by subsection (a) [amending this section] shall apply to any debt outstanding on or after the date of the enactment of this Act [June 18, 2008].”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

OFFSETS FROM SOCIAL SECURITY PAYMENTS

Section 31001(a)(2)(B) of Pub. L. 104-134 provided that: “Subparagraph (A) of section 3716(c)(3) of title 31, United States Code (as added by subsection (d)(2) of this section), shall apply only to payments made after the date which is 4 months after the date of the enactment of this Act [Apr. 26, 1996].”

EX. ORD. NO. 13019. SUPPORTING FAMILIES: COLLECTING DELINQUENT CHILD SUPPORT OBLIGATIONS

Ex. Ord. No. 13019, Sept. 28, 1996, 61 F.R. 51763, provided that:

The Debt Collection Improvement Act of 1996, Public Law 104-134 [§31001] (110 Stat. 1321-358 *et seq.*) [see Short Title of 1996 Amendment note set out under section 3701 of this title], was enacted into law on April 26, 1996, as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996. While the primary purpose of the Debt Collection Improvement Act is to increase the collection of nontax debts owed to the Federal Government, the Act also contains important provisions that can be used to assist families in collecting past-due child support obligations.

The failure of some parents to meet their child support obligations threatens the health, education, and well-being of their children. Compounding this problem, States have experienced difficulties enforcing child support obligations once a parent has moved to another State. With this Executive order, my Administration takes additional steps to support our children and strengthen American families by facilitating the collection of delinquent child support obligations from persons who may be entitled or eligible to receive certain Federal payments or Federal assistance.

Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Administrative Offsets.* (a)(1) The Secretary of the Treasury (“the Secretary”), in accordance with the provisions of the Debt Collection Improvement Act of 1996 and to the extent permitted by law, and in consultation with the Secretary of Health and Human Services and other affected agencies, shall promptly develop and implement procedures necessary for the Secretary to collect past-due child support debts by administrative offset, and shall issue such rules, regulations, and procedures as the Secretary, in consultation with the heads of affected agencies, deems appropriate to govern administrative offsets by the Department of the Treasury and other executive departments and agencies that disburse Federal payments.

(2) The Secretary may enter into reciprocal agreements with States concerning the collection by the Secretary of delinquent child support debts through administrative offsets.

(b) The Secretary of Health and Human Services shall, within 120 days of the date of this order, imple-

ment procedures necessary to report to the Secretary of the Treasury information on past-due child support claims referred by States (including claims enforced by States pursuant to cooperative agreements with or by Indian tribal governments) to the Department of Health and Human Services.

(c) The head of each executive department and agency that certifies payments to the Secretary or to another disbursing official shall review each class of payments that the department or agency certifies to determine if any such class should be exempt from offset and, if any class is so identified, submit to the Secretary a request for such an exemption together with the reasons therefor. With respect to classes of payments under means-tested programs existing on the date of this order, such submission shall be made within 30 days of the date of this order. With respect to classes of payments other than payments under means-tested programs existing on the date of this order, such submissions shall be made within 30 days of the date the Secretary establishes standards pursuant to section 3716(c)(3) of title 31, United States Code. With respect to a class of payments established after the date of this order, such submissions shall be made not later than 30 days after such class is established.

(d) The head of each executive department and agency that certifies payments to the Secretary shall promptly implement any rule, regulation, or procedure issued by the Secretary pursuant to this section.

(e) The head of each executive department and agency that is authorized by law to disburse payments shall promptly implement any rule, regulation, or procedure issued by the Secretary pursuant to this section and shall:

(1) match, consistent with computer privacy matching laws, the payment certification records of such department or agency with records of persons delinquent in child support payments as directed by the Secretary; and

(2) conduct administrative offsets to collect delinquent child support payments.

(f) The Secretary shall, to the extent permitted by law, share with the Secretary of Health and Human Services any information contained in payment certification records of persons who are delinquent in child support obligations that would assist in the collection of such debts, whether or not an administrative offset is conducted.

SEC. 2. Denial of Federal Assistance. (a) The Secretary shall, to the extent permitted by law, ensure that information concerning individuals whose payments are subject to administrative offset because of delinquent child support obligations is made available to the head of each executive department and agency that provides Federal financial assistance to individuals.

(b) In conformance with section 2(e) of this order, the head of each executive department and agency shall, with respect to any individuals whose payments are subject to administrative offset because of a delinquent child support obligation, promptly implement procedures to deny Federal financial assistance to such individuals.

(c) The Attorney General, in consultation with the Secretary of Health and Human Services and other affected agencies, shall promptly issue guidelines for departments and agencies concerning minimum due-process standards to be included in the procedures required by subsection (b) of this section.

(d) For purposes of this section, Federal financial assistance means any Federal loan (other than a disaster loan), loan guarantee, or loan insurance.

(e)(1) A class of Federal financial assistance shall not be subject to denial if the head of the concerned department or agency determines:

(A) in consultation with the Attorney General and the Secretary of Health and Human Services, that such action:

(i) is not permitted by law; or
(ii) would likely result in valid legal claims for damages against the United States;

(B) that such action would be inconsistent with the best interests of the child or children with respect to whom a child support obligation is owed; or

(C) that such action should be waived.

(2) The head of each executive department and agency shall provide written notification to the Secretary upon determining that the denial of a class of Federal financial assistance is not permitted by law or should be waived.

(f) The head of each executive department and agency shall:

(1) review all laws under the jurisdiction of the department or agency that do not permit the denial of Federal financial assistance to individuals and whose payments are subject to administrative offset because of a delinquent child support obligation and, where appropriate, transmit to the Director of the Office of Management and Budget recommendations for statutory changes; and

(2) to the extent practicable, review all rules, regulations, and procedures implementing laws under the jurisdiction of the department or agency governing the provision of any Federal financial assistance to individuals and, where appropriate, conform such rules, regulations, and procedures to the provisions of this order and the rules, regulations, and procedures issued by the Secretary pursuant to section 1 of this order.

SEC. 3. Reports. (a) The head of each executive department and agency shall provide to the Secretary such information as the Secretary may request concerning the implementation of this order, the provisions of the Debt Collection Improvement Act of 1996 applicable to delinquent child support obligations, and the rules, regulations, and procedures issued by the Secretary pursuant to section 1 of this order.

(b) The Secretary shall report annually to the President concerning the implementation by departments and agencies of this order and the provisions of the Debt Collection Improvement Act of 1996 applicable to delinquent child support obligations.

SEC. 4. Judicial Review. This order does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

§ 3717. Interest and penalty on claims

(a)(1) The head of an executive, judicial, or legislative agency shall charge a minimum annual rate of interest on an outstanding debt on a United States Government claim owed by a person that is equal to the average investment rate for the Treasury tax and loan accounts for the 12-month period ending on September 30 of each year, rounded to the nearest whole percentage point. The Secretary of the Treasury shall publish the rate before November 1 of that year. The rate is effective on the first day of the next calendar quarter.

(2) The Secretary may change the rate of interest for a calendar quarter if the average investment rate for the 12-month period ending at the close of the prior calendar quarter, rounded to the nearest whole percentage point, is more or less than the existing published rate by 2 percentage points.

(b) Interest under subsection (a) of this section accrues from the date—

(1) on which notice is mailed after October 25, 1982, if notice was first mailed before October 25, 1982; or

(2) notice of the amount due is first mailed to the debtor at the most current address of the debtor available to the head of the execu-

tive or¹ legislative agency, if notice is first mailed after October 24, 1982.

(c) The rate of interest charged under subsection (a) of this section—

(1) is the rate in effect on the date from which interest begins to accrue under subsection (b) of this section; and

(2) remains fixed at that rate for the duration of the indebtedness.

(d) Interest under subsection (a) of this section may not be charged if the amount due on the claim is paid within 30 days after the date from which interest accrues under subsection (b) of this section. The head of an executive, judicial, or legislative agency may extend the 30-day period.

(e) The head of an executive, judicial, or legislative agency shall assess on a claim owed by a person—

(1) a charge to cover the cost of processing and handling a delinquent claim; and

(2) a penalty charge of not more than 6 percent a year for failure to pay a part of a debt more than 90 days past due.

(f) Interest under subsection (a) of this section does not accrue on a charge assessed under subsection (e) of this section.

(g) This section does not apply—

(1) if a statute, regulation required by statute, loan agreement, or contract prohibits charging interest or assessing charges or explicitly fixes the interest or charges; and

(2) to a claim under a contract executed before October 25, 1982, that is in effect on October 25, 1982.

(h) In conformity with standards prescribed jointly by the Attorney General, the Secretary of the Treasury, and the Comptroller General, the head of an executive, judicial, or legislative agency may prescribe regulations identifying circumstances appropriate to waiving collection of interest and charges under subsections (a) and (e) of this section. A waiver under the regulations is deemed to be compliance with this section.

(i)(1) The head of an executive, judicial, or legislative agency may increase an administrative claim by the cost of living adjustment in lieu of charging interest and penalties under this section. Adjustments under this subsection will be computed annually.

(2) For the purpose of this subsection—

(A) the term “cost of living adjustment” means the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the claim was determined or last adjusted; and

(B) the term “administrative claim” includes all debt that is not based on an extension of Government credit through direct loans, loan guarantees, or insurance, including fines, penalties, and overpayments.

(Added Pub. L. 97-452, §1(16)(A), Jan. 12, 1983, 96 Stat. 2472; amended Pub. L. 104-134, title III, §31001(c)(1), (g)(1)(C), (q), Apr. 26, 1996, 110 Stat. 1321-359, 1321-363, 1321-372.)

¹ So in original. Probably should be “, judicial, or”.

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3717(a)	31 App..952(e)(1) (1st-3d sentences).	July 19, 1966, Pub. L. 89-508, 80 Stat. 308, §3(e)(1) (1st-3d sentences), (2)-(7); added Oct. 25, 1982, Pub. L. 97-365, §11, 96 Stat. 1755.
3717(b), (c).	31 App..952(e)(5).	
3717(d)	31 App..952(e)(6).	
3717(e)	31 App..952(e)(2).	
3717(f)	31 App..952(e)(7).	
3717(g)(1)	31 App..952(e)(3) (1st sentence).	
3717(g)(2)	31 App..952(e)(4).	
3717(h)	31 App..952(e)(3) (2d, last sentences).	

In subsection (a), the words “percentage point” and “percentage points” are substituted for “per centum” for clarity.

In subsections (a)(1) and (e), the words “Except as provided in paragraph (3)” are omitted as surplus.

In subsection (a)(2), the words “for a calendar quarter” are substituted for “quarterly”, and the words “prior calendar quarter” are substituted for “that calendar quarter”, for clarity.

In subsection (b), before clause (1), the words “Subject to paragraph (6)” and “except as provided in subparagraph (B)” are omitted as surplus. In clause (2), the words “on the claim” are omitted as surplus. The words “if notice is first mailed after October 24, 1982” are added for clarity.

In subsection (c), the words “on a claim” are omitted as surplus.

In subsection (g)(1), the words “applicable” and “either” are omitted as surplus. The word “assessing” is added for clarity. The words “that apply to claims involved” are omitted as surplus.

In subsection (h), the words “under this section” are added for clarity.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-134, §31001(c)(1), which directed that this section be amended by substituting “the head of an executive, judicial, or legislative agency” for “the head of an executive or legislative agency” wherever appearing, was executed by substituting “The head of an executive, judicial, or legislative agency” for “The head of an executive or legislative agency”, to reflect the probable intent of Congress.

Subsecs. (d), (e). Pub. L. 104-134, §31001(c)(1), which directed that this section be amended by substituting “the head of an executive, judicial, or legislative agency” for “the head of an executive or legislative agency” wherever appearing, was executed by substituting “The head of an executive, judicial, or legislative agency” for “The head of an executive or legislative agency”, to reflect the probable intent of Congress.

Subsec. (h). Pub. L. 104-134, §31001(c)(1), (g)(1)(C), inserted “, the Secretary of the Treasury,” after “Attorney General” and substituted “the head of an executive, judicial, or legislative agency” for “the head of an executive or legislative agency”.

Subsec. (i). Pub. L. 104-134, §31001(q), added subsec. (i).

§ 3718. Contracts for collection services

(a) Under conditions the head of an executive, judicial, or legislative agency considers appropriate, the head of the agency may enter into a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. The head of an agency may not enter into a contract under the preceding sentence to locate or recover assets of the United States held by a State government or financial institution unless that agency has established procedures approved

by the Secretary of the Treasury to identify and recover such assets. The contract shall provide that—

(1) the head of the agency retains the authority to resolve a dispute, compromise a claim, end collection action, and refer a matter to the Attorney General to bring a civil action; and

(2) the person is subject to—

(A) section 552a of title 5, to the extent provided in section 552a(m); and

(B) laws and regulations of the United States Government and State governments related to debt collection practices.

(b)(1)(A) The Attorney General may make contracts retaining private counsel to furnish legal services, including representation in negotiation, compromise, settlement, and litigation, in the case of any claim of indebtedness owed the United States. Each such contract shall include such terms and conditions as the Attorney General considers necessary and appropriate, including a provision specifying the amount of the fee to be paid to the private counsel under such contract or the method for calculating that fee. The amount of the fee payable for legal services furnished under any such contract may not exceed the fee that counsel engaged in the private practice of law in the area or areas where the legal services are furnished typically charge clients for furnishing legal services in the collection of claims of indebtedness, as determined by the Attorney General, considering the amount, age, and nature of the indebtedness and whether the debtor is an individual or a business entity. Nothing in this subparagraph shall relieve the Attorney General of the competition requirements set forth in division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(B) The Attorney General shall use his best efforts to enter into contracts under this paragraph with law firms owned and controlled by socially and economically disadvantaged individuals and law firms that are qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act), so as to enable each agency to comply with paragraph (3).

(2) The head of an executive, judicial, or legislative agency may, subject to the approval of the Attorney General, refer to a private counsel retained under paragraph (1) of this subsection claims of indebtedness owed the United States arising out of activities of that agency.

(3) Each agency shall use its best efforts to assure that not less than 10 percent of the amounts of all claims referred to private counsel by that agency under paragraph (2) are referred to law firms owned and controlled by socially and economically disadvantaged individuals and law firms that are qualified HUBZone small business concerns. For purposes of this paragraph—

(A) the term “law firm owned and controlled by socially and economically disadvantaged individuals” means a law firm that meets the requirements set forth in clauses (i) and (ii) of section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)(i) and (ii)) and regulations issued under those clauses;

(B) “socially and economically disadvantaged individuals” shall be presumed to in-

clude these¹ groups and individuals described in the last paragraph of section 8(d)(3)(C) of the Small Business Act; and

(C) the term “qualified HUBZone small business concern” has the meaning given that term in section 3(p) of the Small Business Act.

(4) Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, a private counsel retained under paragraph (1) of this subsection may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel under paragraph (1) of this subsection.

(5) A contract made with a private counsel under paragraph (1) of this subsection shall include—

(A) a provision permitting the Attorney General to terminate either the contract or the private counsel’s representation of the United States in particular cases if the Attorney General finds that such action is for the convenience of the Government;

(B) a provision stating that the head of the executive or² legislative agency which refers a claim under the contract retains the authority to resolve a dispute regarding the claim, to compromise the claim, or to terminate a collection action on the claim; and

(C) a provision requiring the private counsel to transmit monthly to the Attorney General and the head of the executive or¹ legislative agency referring a claim under the contract a report on the services relating to the claim rendered under the contract during the month and the progress made during the month in collecting the claim under the contract.

(6) Notwithstanding the fourth sentence of section 803(6) of the Fair Debt Collection Practices Act (15 U.S.C. 1692a(6)), a private counsel performing legal services pursuant to a contract made under paragraph (1) of this subsection shall be considered to be a debt collector for the purposes of such Act.

(7) Any counterclaim filed in any action to recover indebtedness owed the United States which is brought on behalf of the United States by private counsel retained under this subsection may not be asserted unless the counterclaim is served directly on the Attorney General or the United States Attorney for the judicial district in which, or embracing the place in which, the action is brought. Such service shall be made in accordance with the rules of procedure of the court in which the action is brought.

(c) The Attorney General shall transmit to the Congress an annual report on the activities of the Department of Justice to recover indebtedness owed the United States which was referred to the Department of Justice for collection. Each such report shall include a list, by agency, of—

(1) the total number and amounts of claims which were referred for legal services to the Department of Justice and to private counsel under subsection (b) during the 1-year period covered by the report;

(2) the total number and amount of those claims referred for legal services to the De-

¹ So in original. Probably should be “the”.

² So in original. Probably should be “, judicial, or”.

partment of Justice which were collected or were not collected or otherwise resolved during the 1-year period covered by the report; and

(3) the total number and amount of those claims referred for legal services to private counsel under subsection (b)—

(A) which were collected or were not collected or otherwise resolved during the 1-year period covered by the report;

(B) which were not collected or otherwise resolved under a contract terminated by the Attorney General during the 1-year period covered by the report; and

(C) on which the Attorney General terminated the private counsel's representation during the 1-year period covered by the report without terminating the contract with the private counsel under which the claims were referred.

(d) Notwithstanding section 3302(b) of this title, a contract under subsection (a) or (b) of this section may provide that a fee a person charges to recover indebtedness owed, or to locate or recover assets of, the United States Government is payable from the amount recovered.

(e) A contract under subsection (a) or (b) of this section is effective only to the extent and in the amount provided in an appropriation law. This limitation does not apply in the case of a contract that authorizes a person to collect a fee as provided in subsection (d) of this section.

(f) This section does not apply to the collection of debts under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

(g) In order to assist Congress in determining whether use of private counsel is a cost-effective method of collecting Government debts, the Attorney General shall, following consultation with the Government Accountability Office, maintain and make available to the Inspector General of the Department of Justice, statistical data relating to the comparative costs of debt collection by participating United States Attorneys' Offices and by private counsel.

(Added Pub. L. 97-452, §1(16)(A), Jan. 12, 1983, 96 Stat. 2473; amended Pub. L. 98-167, Nov. 29, 1983, 97 Stat. 1104; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99-578, §1, Oct. 28, 1986, 100 Stat. 3305; Pub. L. 102-589, §6, Nov. 10, 1992, 106 Stat. 5135; Pub. L. 103-272, §4(f)(1)(M), July 5, 1994, 108 Stat. 1362; Pub. L. 104-134, title III, §31001(c)(1), (l), (cc)(1), Apr. 26, 1996, 110 Stat. 1321-359, 1321-366, 1321-380; Pub. L. 105-135, title VI, §604(e)(1), Dec. 2, 1997, 111 Stat. 2633; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 111-350, §5(h)(6), Jan. 4, 2011, 124 Stat. 3849.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3718(a)	31 App.:952(f)(1) (1st sentence words after 2d comma, last sentence).	July 19, 1966, Pub. L. 89-508, 80 Stat. 308, §3(f); added Oct. 25, 1982, Pub. L. 97-365, §13(b), 96 Stat. 1757.
3718(b)	31 App.:952(f)(2).	
3718(c)	31 App.:952(f)(3).	
3718(d)	31 App.:952(f)(1) (1st sentence words before 2d comma).	

In subsections (a) and (b), the word "Government" is added for consistency in the revised title and with other titles of the United States Code.

In subsection (a), before clause (1), the words "terms and" are omitted as surplus. The words "or organization" are omitted because of 1:l. In clause (1), the words "bring a civil action" are substituted for "initiate legal action" for consistency in the revised title and with other titles of the Code. In clause (2)(B), the words "including the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.);" are omitted as being included in "laws and regulations of the United States Government".

In subsection (b), the words "the head of an agency" are omitted as surplus.

In subsection (c), the word "advanced" is omitted as surplus.

In subsection (d), the words "Notwithstanding the provisions of any other law governing the collection of claims owed the United States" and "unpaid or underpaid" are omitted as surplus.

REFERENCES IN TEXT

Section 3(p) of the Small Business Act, referred to in subsec. (b)(1)(B), (3)(C), is classified to section 632(p) of Title 15, Commerce and Trade.

The Fair Debt Collection Practices Act, referred to in subsec. (b)(6), is title VIII of Pub. L. 90-321, as added by Pub. L. 95-109 Sept. 20, 1977, 91 Stat. 874, which is classified generally to subchapter V (§1692 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

AMENDMENTS

2011—Subsec. (b)(1)(A). Pub. L. 111-350 substituted "division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" for "title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 and following)".

2004—Subsec. (g). Pub. L. 108-271 substituted "Government Accountability Office" for "General Accounting Office".

1997—Subsec. (b)(1)(B). Pub. L. 105-135, §604(e)(1)(A), inserted "and law firms that are qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act)" after "disadvantaged individuals".

Subsec. (b)(3). Pub. L. 105-135, §604(e)(1)(B)(i), inserted "and law firms that are qualified HUBZone small business concerns" after "economically disadvantaged individuals" in introductory provisions.

Subsec. (b)(3)(C). Pub. L. 105-135, §604(e)(1)(B)(ii)-(iv), added subpar. (C).

1996—Subsec. (a). Pub. L. 104-134, §31001(l)(1), in introductory provisions substituted "Under conditions the head of an executive, judicial, or legislative agency considers appropriate, the head of the agency may enter into a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. The head of an agency may not enter into a contract under the preceding sentence to locate or recover assets of the United States held by a State government or financial institution unless that agency has established procedures approved by the Secretary of the Treasury to identify and recover such assets." for "Under conditions the head of an executive or legislative agency considers appropriate, the head of the agency may make a contract with a person for collection services to recover indebtedness owed the United States Government."

Subsec. (b)(1)(A). Pub. L. 104-134, §31001(cc)(1), struck out "If the Attorney General makes a contract for legal services to be furnished in any judicial district of the United States under the first sentence of this paragraph, the Attorney General shall use his best efforts to obtain, from among attorneys regularly engaged in the private practice of law in such district, at least four such contracts for legal services with private individuals or firms in such district." before "Nothing in this subparagraph shall".

Subsec. (b)(2). Pub. L. 104-134, §31001(c)(1), which directed the amendment of this section by substituting “the head of an executive, judicial, or legislative agency” for “the head of an executive or legislative agency” wherever appearing, was executed by substituting “The head of an executive, judicial, or legislative agency” for “The head of an executive or legislative agency”, to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 104-134, §31001(l)(2), inserted “, or to locate or recover assets of,” after “owed”.

1994—Subsec. (b)(3)(A). Pub. L. 103-272 substituted “15 U.S.C. 637(d)(3)(C)(i)” for “15 U.S.C. 6376(d)(3)(C)(i)”.

1992—Subsec. (g). Pub. L. 102-589 added subsec. (g).

1986—Subsecs. (b), (c). Pub. L. 99-578, §1(1), (4), added subsecs. (b) and (c) and redesignated former subsecs. (b) and (c) as (d) and (e), respectively.

Subsec. (d). Pub. L. 99-578, §1(1), (2), redesignated former subsec. (b) as (d) and inserted “or (b)” after “subsection (a)”. Former subsec. (d) redesignated (f).

Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

Subsec. (e). Pub. L. 99-578, §1(1), (3), redesignated former subsec. (c) as (e), inserted “or (b)” after “(a)”, and substituted “subsection (d)” for “subsection (b)”.

Subsec. (f). Pub. L. 99-578, §1(1), redesignated former subsec. (d) as (f).

1983—Subsec. (c). Pub. L. 98-167 inserted “This limitation does not apply in the case of a contract that authorizes a person to collect a fee as provided in subsection (b) of this section.”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-135 effective Oct. 1, 1997, see section 3 of Pub. L. 105-135, set out as a note under section 631 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 7 of Pub. L. 102-589 provided that: “The provisions of this Act [amending this section and section 3720A of this title, enacting provisions set out as notes under this section and section 6501 of this title, and amending provisions set out as notes under this section and sections 3335 and 6503 of this title] and amendments made by this Act shall take effect on the date of enactment of this Act [Nov. 10, 1992], except if such date of enactment is on or after October 1, 1992, such provisions and amendments shall be effective as if enacted on September 30, 1992.”

EFFECTIVE AND TERMINATION DATES OF 1986 AMENDMENT

Section 5 of Pub. L. 99-578, as amended by Pub. L. 102-589, §4(c), Nov. 10, 1992, 106 Stat. 5134, which provided that Pub. L. 99-578 and the amendments made by section 1 of Pub. L. 99-578 (amending this section and enacting provisions set out as notes under this section) were to be in effect until Sept. 30, 1996, was repealed by Pub. L. 104-134, title III, §31001(cc)(2), Apr. 26, 1996, 110 Stat. 1321-380.

REGULATIONS

Section 4 of Pub. L. 99-578 provided that: “The Attorney General shall issue regulations to carry out this Act and the amendments made by section 1 of this Act [amending this section and enacting provisions set out as notes under this section]. The Attorney General shall submit the regulations to the Congress at least 60 days before they become effective.”

EXTENSION OF CONTRACTS WITH PRIVATE COUNSEL

Section 4(d) of Pub. L. 102-589 provided that: “The Attorney General may extend or modify any or all of the contracts entered into with private counsel prior to October 1, 1992, for such time as is necessary to conduct a full and open competition in accordance with section 3718(b) of title 31, United States Code.”

AUDIT BY INSPECTOR GENERAL

Section 5 of Pub. L. 102-589 provided that:

“(a) CONTENTS OF AUDIT.—The Inspector General of the Department of Justice shall conduct an audit, for the period beginning on October 1, 1991, and ending on September 30, 1994, of the actions of the Attorney General under subsection (b) of section 3718 of title 31, United States Code, under the pilot program referred to in section 3 of the Act entitled ‘An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States.’, approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99-578 [set out below]). The Inspector General shall determine the extent of the competition among private counsel to obtain contracts awarded under such subsection, the reasonableness of the fees provided in such contracts, the diligence and efforts of the Attorney General to retain private counsel in accordance with the provisions of such subsection, the results of the debt collection efforts of private counsel retained under such contracts, and the cost-effectiveness of the pilot project compared with the use of United States Attorneys’ Offices for debt collection.

“(b) REPORT TO CONGRESS.—After completing the audit under subsection (a), the Inspector General shall transmit to the Congress, not later than June 30, 1995, a report on the findings, conclusions, and recommendations resulting from the audit.”

PILOT PROGRAM; EXTENSION

Section 3 of Pub. L. 99-578, as amended by Pub. L. 102-589, §4(b), Nov. 10, 1992, 106 Stat. 5134, which directed Attorney General to carry out subsections (b) and (c) of this section through a pilot program in each of at least 5 and not more than 15 judicial districts selected by the Attorney General, was repealed by Pub. L. 104-134, title III, §31001(cc)(2), Apr. 26, 1996, 110 Stat. 1321-380.

Pub. L. 104-134, title I, §101[(a)] [title I, §120], Apr. 26, 1996, 110 Stat. 1321, 1321-22; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327, provided that the pilot debt collection project authorized by Public Law 99-578 (formerly set out above) was extended through September 30, 1997.

Prior extensions of the pilot program for legal services were contained in the following acts:

Pub. L. 102-589, §4(a), Nov. 10, 1992, 106 Stat. 5134.

Pub. L. 102-395, title I, Oct. 6, 1992, 106 Stat. 1832.

Pub. L. 101-302, title II, May 25, 1990, 104 Stat. 216.

REPORT BY ATTORNEY GENERAL

Section 2 of Pub. L. 99-578 directed Attorney General, not later than 180 days after Oct. 28, 1986, to transmit to Congress a report on actions taken under subsec. (b) of this section, as added by Pub. L. 99-578.

AUDIT BY COMPTROLLER GENERAL

Section 6 of Pub. L. 99-578 provided that:

“(a) CONTENTS OF AUDIT.—The Comptroller General of the United States shall, at the end of the 3-year period referred to in section 5 [set out above], conduct an audit of the actions of the Attorney General under subsection (b) of section 3718 of title 31, United States Code (as added by section 1 of this Act), under the pilot program referred to in section 3 [set out above]. The Comptroller General shall determine the extent of the competition among private counsel to obtain contracts awarded under such subsection, the reasonableness of the fees provided in such contracts, the diligence and efforts of the Attorney General to retain private counsel in accordance with the provisions of such subsection, and the results of the debt collection efforts of private counsel retained under such contracts.

“(b) REPORT TO CONGRESS.—After completing the audit under subsection (a), the Comptroller General shall transmit to the Congress a report on the findings and conclusions resulting from the audit.”

§ 3719. Reports on debt collection activities

(a) In consultation with the Comptroller General of the United States, the Secretary of the

Treasury shall prescribe regulations requiring the head of each agency with outstanding nontax claims to prepare and submit to the Secretary at least once each year a report summarizing the status of loans and accounts receivable that are managed by the head of the agency. The report shall contain—

(1) information on—

(A) the total amount of loans and accounts receivable owed the agency and when amounts owed the agency are due to be repaid;

(B) the total amount of receivables and number of claims at least 30 days past due;

(C) the total amount written off as actually uncollectible and the total amount allowed for uncollectible loans and accounts receivable;

(D) the rate of interest charged for overdue debts and the amount of interest charged and collected on debts;

(E) the total number of claims and the total amount collected; and

(F) the number and total amount of claims referred to the Attorney General for settlement and the number and total amount of claims the Attorney General settles;

(2) the information described in clause (1) of this subsection for each program or activity the head of the agency carries out; and

(3) other information the Secretary considers necessary to decide whether the head of the agency is acting aggressively to collect the claims of the agency.

(b) The Secretary shall analyze the reports submitted under subsection (a) of this section and shall report annually to Congress on the management of debt collection activities by the head of each agency, including the information provided the Secretary under subsection (a).

(Added Pub. L. 97-452, §1(16)(A), Jan. 12, 1983, 96 Stat. 2473; amended Pub. L. 104-134, title III, §31001(aa)(3), Apr. 26, 1996, 110 Stat. 1321-380.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3719(a)	31 App.:955(a).	Oct. 25, 1982, Pub. L. 97-365, §12, 96 Stat. 1756.
3719(b)	31 App.:955(b).	

In subsection (a), before clause (1), the words “of the United States” are omitted as surplus. The words “the head of” are added for consistency in the revised title and with other titles of the United States Code. In clause (1)(C), the words “uncollectible loans and accounts receivable” are added for clarity. In clause (1)(F), the words “Attorney General” are substituted for “Department of Justice” for consistency in the revised title and with other titles of the Code, including 28:503, 509.

In subsection (b), the word “submitted” is substituted for “received by each agency” for clarity.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-134, §31001(aa)(3)(A)(i), amended first sentence generally. Prior to amendment, first sentence read as follows: “In consultation with the Secretary of the Treasury and the Comptroller General, the Director of the Office of Management and Budget shall prescribe regulations requiring the head of each agency with outstanding debts to prepare and sub-

mit to the Director and the Secretary at least once each year a report summarizing the status of loans and accounts receivable managed by the head of the agency.”

Subsec. (a)(3). Pub. L. 104-134, §31001(aa)(3)(A)(ii), substituted “Secretary” for “Director”.

Subsec. (b). Pub. L. 104-134, §31001(aa)(3)(B), which directed that subsec. (b) be amended by substituting “Secretary” for “Director”, was executed by making the substitution to both places where “Director” appeared.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which the reporting requirement under subsec. (b) of this section is listed on page 42), see section 3003 of Pub. L. 104-66, as amended, and section 1(a)(4) [div. A, §1402(1)] of Pub. L. 106-554, set out as notes under section 1113 of this title.

CONSOLIDATION OF REPORTS

Section 31001(aa)(4) of Pub. L. 104-134 provided that: “Notwithstanding any other provision of law, the Secretary of the Treasury may consolidate reports concerning debt collection otherwise required to be submitted by the Secretary into one annual report.”

§ 3720. Collection of payments

(a) Each head of an executive agency (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)) shall, under such regulations as the Secretary of the Treasury shall prescribe, provide for the timely deposit of money by officials and agents of such agency in accordance with section 3302, and for the collection and timely deposit of sums owed to such agency by the use of such procedures as withdrawals and deposits by electronic transfer of funds, automatic withdrawals from accounts at financial institutions, and a system under which financial institutions receive and deposit, on behalf of the executive agency, payments transmitted to post office lockboxes. The Secretary is authorized to collect from any agency not complying with the requirements imposed pursuant to the preceding sentence a charge in an amount the Secretary determines to be the cost to the general fund caused by such noncompliance.

(b) The head of an executive agency shall pay to the Secretary of the Treasury charges imposed pursuant to subsection (a). Payments shall be made out of amounts appropriated or otherwise made available to carry out the program to which the collections relate. The amounts of the charges paid under this subsection shall be deposited in the Cash Management Improvements Fund established by subsection (c).

(c) There is established in the Treasury of the United States a revolving fund to be known as the “Cash Management Improvements Fund”. Sums in the fund shall be available without fiscal year limitation for the payment of expenses incurred in developing the methods of collection and deposit described in subsection (a) of this section and the expenses incurred in carrying out collections and deposits using such methods, including the costs of personal services and the costs of the lease or purchase of equipment and operating facilities.

(Added Pub. L. 98-369, div. B, title VI, §2652(a)(1), July 18, 1984, 98 Stat. 1152.)

REGULATIONS

Section 2652(a)(3) of Pub. L. 98-369 provided that: "The Secretary of the Treasury shall prescribe regulations, including regulations under section 3720 of title 31, United States Code, designed to achieve by October 1, 1986, full implementation of the purposes of this subsection."

§ 3720A. Reduction of tax refund by amount of debt

(a) Any Federal agency that is owed by a person a past-due, legally enforceable debt (including debt administered by a third party acting as an agent for the Federal Government) shall, and any agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), owed such a debt may, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once each year of the amount of such debt.

(b) No Federal agency may take action pursuant to subsection (a) with respect to any debt until such agency—

(1) notifies the person incurring such debt that such agency proposes to take action pursuant to such paragraph with respect to such debt;

(2) gives such person at least 60 days to present evidence that all or part of such debt is not past-due or not legally enforceable;

(3) considers any evidence presented by such person and determines that an amount of such debt is past due and legally enforceable;

(4) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under paragraph (3) with respect to such debt is valid and that the agency has made reasonable efforts (determined on a government-wide basis) to obtain payment of such debt; and

(5) certifies that reasonable efforts have been made by the agency (pursuant to regulations) to obtain payment of such debt.

(c) Upon receiving notice from any Federal agency that a named person owes to such agency a past-due legally enforceable debt, the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to such person. If the Secretary of the Treasury finds that any such amount is payable, he shall reduce such refunds by an amount equal to the amount of such debt, pay the amount of such reduction to such agency, and notify such agency of the individual's home address.

(d) The Secretary of the Treasury shall issue regulations prescribing the time or times at which agencies must submit notices of past-due legally enforceable debts, the manner in which such notices must be submitted, and the necessary information that must be contained in or accompany the notices. The regulations shall specify the minimum amount of debt to which the reduction procedure established by subsection (c) may be applied and the fee that an agency must pay to reimburse the Secretary of the Treasury for the full cost of applying such procedure. Any fee paid to the Secretary pursu-

ant to the preceding sentence may be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

(e) Any Federal agency receiving notice from the Secretary of the Treasury that an erroneous payment has been made to such agency under subsection (c) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such agency under such subsection have been paid to such agency).

(f)(1) Subsection (a) shall apply with respect to an OASDI overpayment made to any individual only if such individual is not currently entitled to monthly insurance benefits under title II of the Social Security Act.

(2)(A) The requirements of subsection (b) shall not be treated as met in the case of the recovery of an OASDI overpayment from any individual under this section unless the notification under subsection (b)(1) describes the conditions under which the Commissioner of Social Security is required to waive recovery of an overpayment, as provided under section 204(b) of the Social Security Act.

(B) In any case in which an individual files for a waiver under section 204(b) of the Social Security Act within the 60-day period referred to in subsection (b)(2), the Commissioner of Social Security shall not certify to the Secretary of the Treasury that the debt is valid under subsection (b)(4) before rendering a decision on the waiver request under such section 204(b). In lieu of payment, pursuant to subsection (c), to the Commissioner of Social Security of the amount of any reduction under this subsection based on an OASDI overpayment, the Secretary of the Treasury shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary of the Treasury as appropriate by the Commissioner of Social Security.

(g) In the case of refunds of business associations, this section shall apply only to refunds payable on or after January 1, 1995. In the case of refunds of individuals who owe debts to Federal agencies that have not participated in the Federal tax refund offset program prior to the date of enactment of this subsection, this section shall apply only to refunds payable on or after January 1, 1994.

(h)(1)¹ The disbursing official of the Department of the Treasury—

(1)¹ shall notify a taxpayer in writing of—

(A) the occurrence of an offset to satisfy a past-due legally enforceable nontax debt;

(B) the identity of the creditor agency requesting the offset; and

(C) a contact point within the creditor agency that will handle concerns regarding the offset;

(2)¹ shall notify the Internal Revenue Service on a weekly basis of—

(A) the occurrence of an offset to satisfy a past-due legally enforceable non-tax² debt;

¹ So in original. Subsec. (h) contains two pars. designated (1) and (2).

² So in original. Probably should not be hyphenated.

(B) the amount of such offset; and

(C) any other information required by regulations; and

(3) shall match payment records with requests for offset by using a name control, taxpayer identifying number (as that term is used in section 6109 of the Internal Revenue Code of 1986), and any other necessary identifiers.

(h)(2)¹ The term “disbursing official” of the Department of the Treasury means the Secretary or his designee.

(i) An agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), may implement this section at its discretion.

(Added Pub. L. 98-369, div. B, title VI, §2653(a)(1), July 18, 1984, 98 Stat. 1153; amended Pub. L. 101-508, title V, §5129(b), Nov. 5, 1990, 104 Stat. 1388-287; Pub. L. 102-589, §3, Nov. 10, 1992, 106 Stat. 5133; Pub. L. 103-296, title I, §108(j)(2), Aug. 15, 1994, 108 Stat. 1488; Pub. L. 104-134, title III, §31001(u)(1), (v)(1), (w), Apr. 26, 1996, 110 Stat. 1321-375.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (f)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Section 204 of the Act is classified to section 404 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The date of enactment of this subsection, referred to in subsec. (g), is the date of enactment of Pub. L. 102-589, which was approved Nov. 10, 1992.

Section 6109 of the Internal Revenue Code of 1986, referred to in subsec. (h)(3), is classified to section 6109 of Title 26, Internal Revenue Code.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-134, §31001(v)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support), including debt administered by a third party acting as an agent for the Federal Government, by a named person shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of all such debt.”

Subsec. (h). Pub. L. 104-134, §31001(w), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: “For purposes of this section—

“(1) the term ‘Federal agency’ means a department, agency, or instrumentality of the United States (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)), and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code);

“(2) the term ‘past-due support’ means any delinquency subject to section 464 of the Social Security Act;

“(3) the term ‘OASDI overpayment’ means any overpayment of benefits made to an individual under title II of the Social Security Act; and

“(4) the term ‘person’ means an individual; or a sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association.”

Subsec. (i). Pub. L. 104-134, §31001(u)(1), added subsec. (i).

1994—Subsec. (f)(2). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary of Health and Human Services” wherever appearing.

1992—Subsec. (a). Pub. L. 102-589, §3(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support) by a named person shall, in accordance with regulations issued pursuant to subsection (d), notify the Secretary of the Treasury of the amount of such debt.”

Subsec. (b)(3) to (5). Pub. L. 102-589, §3(2), struck out “and” at end of par. (3), substituted “(determined on a government-wide basis) to obtain payment of such debt; and” for “to obtain payment of such debt.” in par. (4), and added par. (5).

Subsec. (g). Pub. L. 102-589, §3(5), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 102-589, §3(3), (4), redesignated subsec. (g) as (h) and added par. (4).

1990—Subsec. (a). Pub. L. 101-508, §5129(b)(1), struck out “OASDI overpayment and” after “other than any”.

Subsecs. (f), (g). Pub. L. 101-508, §5129(b)(2), (3), added subsec. (f) and redesignated former subsec. (f) as (g).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-589 effective as if enacted on Sept. 30, 1992, see section 7 of Pub. L. 102-589, set out as a note under section 3718 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective Jan. 1, 1991, and inapplicable to refunds to which amendments by section 2653 of the Deficit Reduction Act of 1984, Pub. L. 98-369, do not apply, see section 5129(d) of Pub. L. 101-508, set out as a note under section 6402 of Title 26, Internal Revenue Code.

EFFECTIVE DATE

Section applicable with respect to refunds payable under section 6402 of Title 26, Internal Revenue Code, after Dec. 31, 1985, see section 2653(c) of Pub. L. 98-369, as amended, set out as an Effective Date of 1984 Amendment note under section 6402 of Title 26.

CLARIFICATION OF CONGRESSIONAL INTENT AS TO SCOPE OF AMENDMENTS BY SECTION 2653 OF PUB. L. 98-369

For provisions that nothing in amendments by section 2653 of Pub. L. 98-369, enacting this section, be construed as exempting debts of corporations or any other category of persons from application of such amendments, with such amendments to extend to all Federal agencies (as defined in such amendments), see section 9402(b) of Pub. L. 100-203, set out as a note under section 6402 of Title 26, Internal Revenue Code.

§ 3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan insurance guarantees

(a) Unless this subsection is waived by the head of a Federal agency, a person may not obtain any Federal financial assistance in the form of a loan (other than a disaster loan or a marketing assistance loan or loan deficiency payment under subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.)) or loan insurance or guarantee administered by the agency if the person has an outstanding debt (other than a debt under the Internal Revenue Code of 1986) with any Federal agency which is in a delinquent status, as determined under standards prescribed by the Secretary of the Treasury. Such a person may obtain additional

loans or loan guarantees only after such delinquency is resolved in accordance with those standards. The Secretary of the Treasury may exempt, at the request of an agency, any class of claims.

(b) The head of a Federal agency may delegate the waiver authority under subsection (a) to the Chief Financial Officer of the agency. The waiver authority may be redelegated only to the Deputy Chief Financial Officer of the agency.

(Added Pub. L. 104-134, title III, § 31001(j)(1), Apr. 26, 1996, 110 Stat. 1321-365; amended Pub. L. 106-387, § 1(a) [title VIII, § 845(a)], Oct. 28, 2000, 114 Stat. 1549, 1549A-65.)

REFERENCES IN TEXT

The Agricultural Market Transition Act, referred to in subsec. (a), is title I of Pub. L. 104-127, Apr. 4, 1996, 110 Stat. 896, as amended. Subtitle C of the Act is classified generally to subchapter III (§ 7231 et seq.) of chapter 100 of Title 7, Agriculture. For complete classification of this Act to the Code, see References in Text note set out under section 7201 of Title 7 and Tables.

The Internal Revenue Code of 1986, referred to in subsec. (a), is classified to Title 26, Internal Revenue Code.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-387 inserted “or a marketing assistance loan or loan deficiency payment under subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.)” after “disaster loan”.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-387, § 1(a) [title VIII, § 845(c)], Oct. 28, 2000, 114 Stat. 1549, 1549A-65, provided that:

“(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] takes effect on the date of enactment of this Act [Oct. 28, 2000].

“(2) TRANSITION LOAN DEFICIENCY PAYMENTS.—If the producers on a farm lost beneficial interest in a crop during the period beginning March 21, 2000, and ending on the day before the date of enactment of this Act and were ineligible for a marketing assistance loan under subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.) because of section 3720B(a) of title 31, United States Code, as in effect before the amendment made by subsection (a), the producers shall be eligible for any loan deficiency payment under subtitle C of that Act that was available on the date on which the producers lost beneficial interest in the crop.”

PAYMENTS

Pub. L. 106-387, § 1(a) [title VIII, § 845(b)], Oct. 28, 2000, 114 Stat. 1549, 1549A-65, provided that: “Any payment made by the Commodity Credit Corporation to a producer as a result of the amendment made by section (a) [amending this section] shall be credited toward any delinquent debt owed by the producer to the Farm Service Agency.”

§ 3720C. Debt Collection Improvement Account

(a)(1) There is hereby established in the Treasury a special fund to be known as the “Debt Collection Improvement Account” (hereinafter in this section referred to as the “Account”).

(2) The Account shall be maintained and managed by the Secretary of the Treasury, who shall ensure that agency programs are credited with amounts transferred under subsection (b)(1).

(b)(1) Not later than 30 days after the end of a fiscal year, an agency may transfer to the Account the amount described in paragraph (3), as adjusted under paragraph (4).

(2) Agency transfers to the Account may include collections from—

(A) salary, administrative, and tax refund offsets;

(B) the Department of Justice;

(C) private collection agencies;

(D) sales of delinquent loans; and

(E) contracts to locate or recover assets.

(3) The amount referred to in paragraph (1) shall be 5 percent of the amount of delinquent debt collected by an agency in a fiscal year, minus the greater of—

(A) 5 percent of the amount of delinquent nontax debt collected by the agency in the previous fiscal year, or

(B) 5 percent of the average annual amount of delinquent nontax debt collected by the agency in the previous 4 fiscal years.

(4) In consultation with the Secretary of the Treasury, the Office of Management and Budget may adjust the amount described in paragraph (3) for an agency to reflect the level of effort in credit management programs by the agency. As an indicator of the level of effort in credit management, the Office of Management and Budget shall consider the following:

(A) The number of days between the date a claim or debt became delinquent and the date which an agency referred the debt or claim to the Secretary of the Treasury or obtained an exemption from this referral under section 3711(g)(2) of this title.

(B) The ratio of delinquent debts or claims to total receivables for a given program, and the change in this ratio over a period of time.

(c)(1) The Secretary of the Treasury may make payments from the Account solely to reimburse agencies for qualified expenses. For agencies with franchise funds, such payments may be credited to subaccounts designated for debt collection.

(2) For purposes of this section, the term “qualified expenses” means expenditures for the improvement of credit management, debt collection, and debt recovery activities, including—

(A) account servicing (including cross-servicing under section 3711(g) of this title),

(B) automatic data processing equipment acquisitions,

(C) delinquent debt collection,

(D) measures to minimize delinquent debt,

(E) sales of delinquent debt,

(F) asset disposition, and

(G) training of personnel involved in credit and debt management.

(3)(A) Amounts transferred to the Account shall be available to the Secretary of the Treasury for purposes of this section to the extent and in amounts provided in advance in appropriations Acts.

(B) As soon as practicable after the end of the third fiscal year after which amounts transferred are first available pursuant to this section, and every 3 years thereafter, any uncommitted balance in the Account shall be transferred to the general fund of the Treasury as miscellaneous receipts.

(d) For direct loans and loan guarantee programs subject to title V of the Congressional Budget Act of 1974, amounts credited in accordance with subsection (c) shall be considered administrative costs.

(e) The Secretary of the Treasury shall prescribe such rules, regulations, and procedures as the Secretary considers necessary or appropriate to carry out the purposes of this section. (Added Pub. L. 104-134, title III, §31001(t)(1), Apr. 26, 1996, 110 Stat. 1321-373.)

REFERENCES IN TEXT

The Congressional Budget Act of 1974, referred to in subsec. (d), is titles I through IX of Pub. L. 93-344, July 12, 1974, 88 Stat. 297, as amended. Title V of the Act, known as the Federal Credit Reform Act of 1990, is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

§ 3720D. Garnishment

(a) Notwithstanding any provision of State law, the head of an executive, judicial, or legislative agency that administers a program that gives rise to a delinquent nontax debt owed to the United States by an individual may in accordance with this section garnish the disposable pay of the individual to collect the amount owed, if the individual is not currently making required repayment in accordance with any agreement between the agency head and the individual.

(b) In carrying out any garnishment of disposable pay of an individual under subsection (a), the head of an executive, judicial, or legislative agency shall comply with the following requirements:

(1) The amount deducted under this section for any pay period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual.

(2) The individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the head of the executive, judicial, or legislative agency, informing the individual of—

(A) the nature and amount of the debt to be collected;

(B) the intention of the agency to initiate proceedings to collect the debt through deductions from pay; and

(C) an explanation of the rights of the individual under this section.

(3) The individual shall be provided an opportunity to inspect and copy records relating to the debt.

(4) The individual shall be provided an opportunity to enter into a written agreement with the executive, judicial, or legislative agency, under terms agreeable to the head of the agency, to establish a schedule for repayment of the debt.

(5) The individual shall be provided an opportunity for a hearing in accordance with subsection (c) on the determination of the head of the executive, judicial, or legislative agency concerning—

(A) the existence or the amount of the debt, and

(B) in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to para-

graph (4), the terms of the repayment schedule.

(6) If the individual has been reemployed within 12 months after having been involuntarily separated from employment, no amount may be deducted from the disposable pay of the individual until the individual has been reemployed continuously for at least 12 months.

(c)(1) A hearing under subsection (b)(5) shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (b)(2), and in accordance with such procedures as the head of the executive, judicial, or legislative agency may prescribe, files a petition requesting such a hearing.

(2) If the individual does not file a petition requesting a hearing prior to such date, the head of the agency shall provide the individual a hearing under subsection (a)(5)¹ upon request, but such hearing need not be provided prior to issuance of a garnishment order.

(3) The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

(4) The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

(e)(1) An employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section, and such individual may sue in a State or Federal court of competent jurisdiction any employer who takes such action.

(2) The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

(f)(1) The employer of an individual—

(A) shall pay to the head of an executive, judicial, or legislative agency as directed in a withholding order issued in an action under this section with respect to the individual, and

(B) shall be liable for any amount that the employer fails to withhold from wages due an employee following receipt by such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages.

(2)(A) The head of an executive, judicial, or legislative agency may sue an employer in a State or Federal court of competent jurisdiction to recover amounts for which the employer is liable under paragraph (1)(B).

(B) A suit under this paragraph may not be filed before the termination of the collection action, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period.

(3) Notwithstanding paragraphs (1) and (2), an employer shall not be required to vary its nor-

¹ So in original. Probably should be subsection "(b)(5)".

mal pay and disbursement cycles in order to comply with this subsection.

(g) For the purpose of this section, the term “disposable pay” means that part of the compensation of any individual from an employer remaining after the deduction of any amounts required by any other law to be withheld.

(h) The Secretary of the Treasury shall issue regulations to implement this section.

(Added Pub. L. 104-134, title III, §31001(o)(1), Apr. 26, 1996, 110 Stat. 1321-369.)

§ 3720E. Dissemination of information regarding identity of delinquent debtors

(a) The head of any agency may, with the review of the Secretary of the Treasury, for the purpose of collecting any delinquent nontax debt owed by any person, publish or otherwise publicly disseminate information regarding the identity of the person and the existence of the nontax debt.

(b)(1) The Secretary of the Treasury, in consultation with the Director of the Office of Management and Budget and the heads of other appropriate Federal agencies, shall issue regulations establishing procedures and requirements the Secretary considers appropriate to carry out this section.

(2) Regulations under this subsection shall include—

(A) standards for disseminating information that maximize collections of delinquent nontax debts, by directing actions under this section toward delinquent debtors that have assets or income sufficient to pay their delinquent nontax debt;

(B) procedures and requirements that prevent dissemination of information under this section regarding persons who have not had an opportunity to verify, contest, and compromise their nontax debt in accordance with this subchapter; and

(C) procedures to ensure that persons are not incorrectly identified pursuant to this section.

(Added Pub. L. 104-134, title III, §31001(r)(1), Apr. 26, 1996, 110 Stat. 1321-372.)

SUBCHAPTER III—CLAIMS AGAINST THE UNITED STATES GOVERNMENT

§ 3721. Claims of personnel of agencies and the District of Columbia government for personal property damage or loss

(a) In this section—

(1) “agency” does not include a nonappropriated fund activity or a contractor with the United States Government.

(2) “head of an agency” means—

(A) for a military department, the Secretary of the military department;

(B) for the Department of Defense (except the military departments), the Secretary of Defense; and

(C) for another agency, the head of the agency.

(3) “settle” means consider, determine, adjust, and dispose of a claim by disallowance or by complete or partial allowance.

(b)(1) The head of an agency may settle and pay not more than \$40,000 for a claim against the

Government made by a member of the uniformed services under the jurisdiction of the agency or by an officer or employee of the agency for damage to, or loss of, personal property incident to service. If, however, the claim arose from an emergency evacuation or from extraordinary circumstances, the amount settled and paid under the authority of the preceding sentence may exceed \$40,000, but may not exceed \$100,000. A claim allowed under this subsection may be paid in money or the personal property replaced in kind.

(2) The Secretary of State may waive the settlement and payment limitation referred to in paragraph (1) for claims for damage or loss by United States Government personnel under the jurisdiction of a chief of mission in a foreign country if such claims arise in circumstances where there is in effect a departure from the country authorized or ordered under circumstances described in section 5522(a) of title 5, if the Secretary determines that there exists exceptional circumstances that warrant such a waiver.

(c) On paying a claim under this section, the Government is subrogated for the amount of the payment to a right or claim that the claimant may have against a foreign country for the damage or loss for which the Government made the payment.

(d) The Mayor of the District of Columbia may settle and pay a claim against the District of Columbia government made by an officer or employee of the District of Columbia government to the same extent the head of an agency may settle and pay a claim under this section.

(e) A claim may not be allowed under this section if the personal property damage or loss occurred at quarters occupied by the claimant in a State or the District of Columbia that were not assigned or provided in kind by the United States Government or the District of Columbia government.

(f) A claim may be allowed under this section only if—

(1) the claim is substantiated;

(2) the head of the agency decides that possession of the property was reasonable or useful under the circumstances; and

(3) no part of the loss was caused by any negligent or wrongful act of the claimant or an agent or employee of the claimant.

(g) A claim may be allowed under this section only if it is presented in writing within 2 years after the claim accrues. However, if a claim under subsection (b) of this section accrues during war or an armed conflict in which an armed force of the United States is involved, or has accrued within 2 years before war or an armed conflict begins, and for cause shown, the claim must be presented within 2 years after the cause no longer exists or after the war or armed conflict ends, whichever is earlier. An armed conflict begins and ends as stated in a concurrent resolution of Congress or a decision of the President.

(h) The head of the agency—

(1) may settle and pay a claim made by the surviving spouse, child, parent, or brother or sister of a dead member, officer, or employee if the claim is otherwise payable under this section; and