

Farm Credit System Insurance Corp.

§ 1408.39

(b) These regulations do not apply to the following: (1) Debts or claims arising under the Internal Revenue Code of 1986, as amended (26 U.S.C. 1 *et seq.*); the Social Security Act (42 U.S.C. 301 *et seq.*); the tariff laws of the United States; or to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute (e.g., travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108).

(2) Any adjustment to pay arising from an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay if the amount to be recovered was accumulated over four pay periods or less.

(3) A claim which has been outstanding for more than 10 years after the creditor agency's right to collect the debt first accrued, unless facts material to the Government's right to collect were not known and could not reasonably have been known by the official or officials charged with the responsibility for discovery and collection of such debts.

§ 1408.37 Definitions.

In this subpart, the following definitions shall apply:

(a) *Agency* means:

(1) An executive agency as defined by 5 U.S.C. 105, including the United States Postal Service and the United States Postal Rate Commission;

(2) A military department as defined in 5 U.S.C. 102;

(3) An agency or court of the judicial branch, including a court as defined in 28 U.S.C. 610, the District Court for the Northern Mariana Islands, and the Judicial Panel on Multi-district Litigation;

(4) An agency of the legislative branch, including the United States Senate and the United States House of Representatives; or

(5) Other independent establishments that are entities of the Federal Government.

(b) *Disposable pay* means, for an officially established pay interval, that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an employee not entitled to basic pay, other authorized

pay remaining after the deduction of any amount required by law to be withheld. The Corporation shall allow the deductions described in 5 CFR 581.105 (b) through (f).

(c) *Employee* means a current employee of the Corporation or other agency, including a current member of the Armed Forces or Reserve of the Armed Forces of the United States.

(d) *Waiver* means the cancellation, remission, forgiveness, or nonrecovery of a debt allegedly owed by an employee to the Corporation or another agency as permitted or required by 5 U.S.C. 5584 or 8346(b), 10 U.S.C. 2774, 32 U.S.C. 716, or any other law.

§ 1408.38 Waiver requests and claims to the General Accounting Office.

(a) The regulations contained in this subpart do not preclude an employee from requesting a waiver of an overpayment under 5 U.S.C. 5584 or 8346(b), 10 U.S.C. 2774, 32 U.S.C. 716, or in any way questioning the amount or validity of a debt by submitting a subsequent claim to the General Accounting Office in accordance with the procedures prescribed by the General Accounting Office.

(b) These regulations also do not preclude an employee from requesting a waiver pursuant to other statutory provisions pertaining to the particular debts being collected.

§ 1408.39 Procedures for salary offset.

(a) The Chairman, or designee of the Chairman, shall determine the amount of an employee's disposable pay and the amount to be deducted from the employee's disposable pay at regular pay intervals.

(b) Deductions shall begin within three official pay periods following the date of mailing or delivery of the Notice of Intent to Collect by Salary Offset.

(c)(1) If the amount of the debt is equal to or is less than 15 percent of the employee's disposable pay, such debt should be collected in one lump-sum deduction.

(2) If the amount of the debt is not collected in one lump-sum deduction, the debt shall be collected in installment deductions over a period of time not greater than the anticipated period

§ 1408.40

of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted from any pay period will not exceed 15 percent of the employee's disposable pay for that period, unless the employee has agreed in writing to the deduction of a greater amount.

(3) A deduction exceeding the 15-percent disposable pay limitation may be made from any final salary payment pursuant to 31 U.S.C. 3716 in order to liquidate the debt, whether the employee is being separated voluntarily or involuntarily.

(4) Whenever an employee subject to salary offset is separated from the Corporation and the balance of the debt cannot be liquidated by offset of the final salary check pursuant to 31 U.S.C. 3716, the Corporation may offset any later payments of any kind against the balance of the debt.

(d) In instances where two or more creditor agencies are seeking salary offsets against current employees of the Corporation or where two or more debts are owed to a single creditor agency, the Corporation, at its discretion, may determine whether one or more debts should be offset simultaneously within the 15-percent limitation. Debts owed to the Corporation should generally take precedence over debts owed to other agencies.

§ 1408.40 Refunds.

(a) In instances where the Corporation is the creditor agency, it shall promptly refund any amounts deducted under the authority of 5 U.S.C. 5514 when:

(1) The debt is waived or otherwise found not to be owed to the United States (unless expressly prohibited by statute or regulations); or

(2) An administrative or judicial order directs the Corporation to make a refund.

(b) Unless required or permitted by law or contract, refunds under this section shall not bear interest.

§ 1408.41 Requesting current paying agency to offset salary.

(a) To request a paying agency to impose a salary offset against amounts

12 CFR Ch. XIV (1-1-04 Edition)

owed to the debtor, the Corporation shall provide the paying agency with a claim certification which meets the requirements set forth in § 1408.25(a) of this part. The Corporation shall also provide the paying agency with a repayment schedule determined under the provisions of § 1408.39 or in accordance with a repayment agreement entered into with the debtor.

(b) If the employee separates from the paying agency before the debt is paid in full, the paying agency shall certify the total amount collected on the debt. A copy of this certification shall be sent to the employee and a copy shall be sent to the Corporation. If the paying agency is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, or other similar payments, it must provide written notification to the agency responsible for making such payments that the debtor owes a debt (including the amount) and that the provisions of this section have been fully complied with. However, the Corporation must submit a properly certified claim to the agency responsible for making such payments before the collection can be made.

(c) When an employee transfers to another paying agency, the Corporation is not required to repeat the due process procedures set forth in 5 U.S.C. 5514 and this part to resume the collection. The Corporation shall, however, review the debt upon receiving the former paying agency's notice of the employee's transfer to make sure the collection is resumed by the new paying agency.

(d) If a special review is conducted pursuant to § 1408.11 and results in a revised offset or repayment schedule, the Corporation shall provide a new claim certification to the paying agency.

§ 1408.42 Responsibility of the Corporation as the paying agency.

(a) When the Corporation receives a claim certification from a creditor agency, deductions should be scheduled to begin at the next officially established pay interval. The Corporation shall send the debtor written notice which provides: