

§ 1704.3

(8) Normal life insurance premiums, e.g., Serviceman's Group Life Insurance and "Basic Life"; Federal Employee's Group Life Insurance premiums, not including amounts deducted for supplementary coverage.

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

(l) *FCCS* means the Federal Claims Collection Standards at 4 CFR chapter II.

(m) *Hearing official* means an individual who is responsible for conducting any hearing with respect to the existence or amount of a debt claimed and for rendering a decision on the basis of such hearing. A hearing official may not be under the supervision or control of the Director of OFHEO when OFHEO is the creditor agency but may be an administrative law judge.

(n) *Notice of Intent* means a written notice of a creditor agency to a debtor that states that the debtor owes a debt to the creditor agency and appraises the debtor of the applicable procedural rights.

(o) *Notice of salary offset* means a written notice from the paying agency to an employee after a certification has been issued by a creditor agency that informs the employee that salary offset will begin at the next officially established pay interval.

(p) *Paying agency* means an agency of the Federal Government that employs the individual who owes a debt to an agency of the Federal Government.

(q) *Salary offset* means an administrative offset to collect a debt under 5 U.S.C. 5514 by deductions at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

(r) *Waiver* means the cancellation, remission, forgiveness, or non-recovery of a debt allegedly owed by an employee to OFHEO 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.

[64 FR 34969, June 30, 1999. Redesignated and amended at 65 FR 81328, Dec. 26, 2000]

12 CFR Ch. XVII (1–1–04 Edition)

§ 1704.3 Collection of debts and referrals to the Department of the Treasury.

(a) *Collection activity*. The collection of debts directly and by offset shall be pursued in accordance with this part 1704. This part 1704 incorporates all applicable debt collection provisions of the FCCS and supplements the FCCS by the prescription of procedures necessary and appropriate for the operations of OFHEO.

(b) *Referral of delinquent debts*. (1) OFHEO shall transfer to the Secretary of the Department of the Treasury any past due, legally enforceable nontax debt that has been delinquent for a period of 180 days or more so that the Secretary may take appropriate action to collect the debt or terminate collection action in accordance with 31 U.S.C. 3716, 5 U.S.C. 5514, the FCCS, 5 CFR 550.1108, and 31 CFR part 285.

(2) OFHEO may transfer any past due, legally enforceable nontax debt that has been delinquent for less than a period of 180 days to a debt collection center for collection in accordance with 31 U.S.C. 3716, 5 U.S.C. 5514, 5 CFR 550.1108, 31 CFR part 285, and the FCCS.

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§§ 1704.4–1704.19 [Reserved]

Subpart B—Salary Offset

§ 1704.20 Authority and scope.

(a) *Authority*. OFHEO may collect debts owed by employees to the Federal Government by means of salary offset under the authority of 5 U.S.C. 5514, 5 CFR part 550, subpart K, and this subpart B.

(b) *Scope*. (1) The procedures set forth in this subpart B apply to situations where OFHEO is attempting to collect a debt by salary offset that is owed to it by an individual employed by OFHEO or by another agency; or where OFHEO employs an individual who owes a debt to another agency.

(2) The procedures set forth in this subpart B do not apply to:

(i) Any routine intra-agency adjustment of pay that is attributable to clerical or administrative error or delay in processing pay documents that

have occurred within the four pay periods preceding the adjustment, or any adjustment to collect a debt amounting to \$50 or less. However, at the time of any such adjustment, or as soon thereafter as possible, OFHEO or its designated payroll agent shall provide the employee with a written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment.

(ii) Any negative adjustment to pay that arises from an employee's election of coverage or a change in coverage under a Federal benefits program that requires periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less. However, at the time the such adjustment is made, OFHEO or its payroll agent shall provide in the employee's earnings statement a clear and concise statement that informs the employee of the previous overpayment.

§ 1704.21 Notice requirements before salary offset where OFHEO is the creditor agency.

(a) *Notice of Intent.* Deductions from an employee's salary may not be made unless OFHEO provides the employee with a Notice of Intent a minimum of 30 calendar days before the salary offset is initiated.

(b) *Contents of Notice of Intent.* The Notice of Intent shall advise the employee of the following:

(1) OFHEO has reviewed the records relating to the claim and has determined that the employee owes the debt;

(2) OFHEO intends to collect the debt by deductions from the employee's current disposable pay account;

(3) The amount of the debt and the facts giving rise to the debt;

(4) The frequency and amount of the intended deduction (stated as a fixed dollar amount or as a percentage of pay not to exceed 15 percent of disposable pay), and the intention to continue the deductions until the debt and all accumulated interest are paid in full or otherwise resolved;

(5) The name, address, and telephone number of the person to whom the employee may propose a written alternative schedule for voluntary repayment, in lieu of salary offset. The em-

ployee shall include a justification for the alternative schedule in his or her proposal. If the terms of the alternative schedule are agreed upon by the employee and OFHEO, the alternative written schedule shall be signed by both the employee and OFHEO;

(6) An explanation of OFHEO's policy concerning interest, penalties, and administrative costs, including a statement that such assessments must be made unless excused in accordance with the FCCS;

(7) The employee's right to inspect and copy all records of OFHEO pertaining to his or her debt that are not exempt from disclosure or to receive copies of such records if he or she is unable personally to inspect the records as the result of geographical or other constraints;

(8) The name, address, and telephone number of the OFHEO employee to whom requests for access to records relating to the debt must be sent;

(9) The employee's right to a hearing conducted by an impartial hearing official with respect to the existence and amount of the debt claimed or the repayment schedule *i.e.*, the percentage of disposable pay to be deducted each pay period, so long as a request is filed by the employee as prescribed in §1704.23; the name and address of the office to which the request for a hearing should be sent; and the name, address, and telephone number of a person whom the employee may contact concerning procedures for requesting a hearing;

(10) The filing of a request for a hearing on or before the 15th calendar day following receipt of the Notice of Intent will stay the commencement of collection proceedings and a final decision on whether a hearing will be held (if a hearing is requested) will be issued at the earliest practical date;

(11) OFHEO shall initiate certification procedures to implement a salary offset unless the employee files a request for a hearing on or before the 15th calendar day following receipt of the Notice of Intent;

(12) Any knowingly false or frivolous statement, representations, or evidence may subject the employee to:

(i) Disciplinary procedures appropriate under 5 U.S.C. chapter LXXV, 5