

## Federal Housing Enterprise Oversight

## § 1704.52

or terminate its request for administrative offset under paragraph (a) of this section.

§§ 1704.48–1704.49 [Reserved]

### Subpart D—Tax Refund Offset

#### § 1704.50 Authority and scope.

The provisions of 26 U.S.C. 6402(d) and 31 U.S.C. 3720A authorize the Secretary of the Treasury to offset a delinquent debt owed the Federal Government from the tax refund due a taxpayer when other collection efforts have failed to recover the amount due.

#### § 1704.51 Definitions.

(a)(1) *Debt* means money owed by an individual, organization, or entity from sources which include loans insured or guaranteed by the Federal Government and all other amounts due the Federal Government from fees, leases, services, overpayments, civil and criminal penalties, damages, interest, fines, administrative costs, and all other similar sources.

(2) A debt becomes eligible for tax refund offset procedures if:

(i) It cannot currently be collected pursuant to the salary offset procedures of 5 U.S.C. 5514(a)(1);

(ii) The debt is ineligible for administrative offset under 31 U.S.C. 3716(a) by reason of 31 U.S.C. 3716(c)(2), or it cannot be collected currently by administrative offset under 31 U.S.C. 3716(a); and

(iii) The requirements of this section are otherwise satisfied.

(3) All judgment debts are past due for purposes of this subpart D. Judgment debts remain past due until paid in full.

(b) *Dispute* means a written statement supported by documentation or other evidence that all or part of an alleged debt is not past due or legally enforceable, that the amount is not the amount currently owed, that the outstanding debt has been satisfied, or in the case of a debt reduced to judgment, that the judgement has been satisfied or stayed.

(c) *Notice* means the information sent to the debtor pursuant to § 1704.53. The date of the notice is that date shown

on the notice letter as its date of issuance.

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

#### § 1704.52 Procedures.

(a) *Referral to the Department of the Treasury.* (1) OFHEO may refer any past due, legally enforceable nonjudgment debt of an individual, organization, or entity to the Department of the Treasury for tax refund offset if OFHEO's or the referring agency's rights of action accrued more than three months but less than 10 years before the offset is made.

(2) Debts reduced to judgment may be referred at any time.

(3) Debts in amounts lower than \$25 are not subject to referral.

(4) In the event that more than one debt is owed, the tax refund offset procedures shall be applied in the order in which the debts became past due.

(5) OFHEO shall notify the Department of the Treasury of any change in the amount due promptly after receipt of payment or notice of other reductions.

(b) *Notice.* OFHEO shall provide the debtor with written notice of its intent to offset before initiating the offset. Notice shall be mailed to the debtor at the current address of the debtor, as determined from information obtained from the Internal Revenue Service pursuant to 26 U.S.C. 6103(m)(2), (4), (5) or maintained by OFHEO. The notice sent to the debtor shall state the amount of the debt and inform the debtor that:

(1) The debt is past due;

(2) OFHEO intends to refer the debt to the Department of the Treasury for offset from tax refunds that may be due to the taxpayer;

(3) OFHEO intends to provide information concerning the delinquent debt exceeding \$100 to a consumer reporting bureau unless such debt has already been disclosed; and

(4) Before the debt is reported to a consumer reporting agency, if applicable, and referred to the Department of the Treasury for offset from tax refunds, the debtor has 65 calendar days from the date of notice to request a review under paragraph (d).

(c) *Report to consumer reporting agency.* If the debtor neither pays the