

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–57

[GSPMR Case 2003–105–2]

RIN 3090–AH85

Administrative Wage Garnishment

AGENCY: Office of Finance, General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) is proposing to amend its regulations to implement the administrative wage garnishment provisions contained in the Debt Collection Improvement Act of 1996 (DCIA). Wage garnishment is a process whereby an employer withholds amounts from an employee's wages and pays those amounts to the employee's creditor in satisfaction of a withholding order. The DCIA authorizes Federal agencies to administratively garnish the disposable pay of an individual to collect delinquent non-tax debts owed to the United States in accordance with regulations issued by the Secretary of the Treasury.

This part was previously titled Collection of Debts by Tax Refund Offset. Effective January 1, 1999, the Department of Treasury started to conduct the tax refund offset program as part of the centralized offset program, known as the Treasury Offset Program (TOP), operated by the Financial Management Service (FMS), a bureau of the Department of Treasury. Since GSA has a cross-servicing agreement with FMS, which includes the TOP, the collection of debts by tax refund offset is no longer valid and is rescinded and replaced with the new part regarding administrative wage garnishment.

DATES: Interested parties should submit comments in writing on or before September 9, 2003 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, Office of the Chief Financial Officer

(BCD), 1800 F Street, NW., Room 3121, ATTN: Michael J. Kosar, Washington, DC 20405. Submit electronic comments via the Internet to: mike.kosar@gsa.gov. Please submit comments only and cite GSPMR Case 2003–105–2 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, Room 4035, GS Building, Washington, DC 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Michael J. Kosar, (202) 501–2029. Please cite GSPMR case 2003–105–2.

SUPPLEMENTARY INFORMATION:

A. Background

This rule is proposed to implement the wage garnishment provision in section 31001(o) of the Debt Collection Improvement Act of 1996 (DCIA), Pub. L. 104–134, 110 Stat. 1321–358 (Apr. 26, 1996), codified at 31 U.S.C. 3720D. Wage garnishment is a process whereby an employer withholds amounts from an employee's wages and pays those amounts to the employee's creditor in satisfaction of a withholding order. The DCIA authorizes Federal agencies to administratively garnish up to 15% of the disposable pay of a debtor to satisfy delinquent non-tax debt owed to the United States. Prior to the enactment of the DCIA, agencies were required to obtain a court judgment before garnishing the wages of non-Federal employees. Section 31001(o) of the DCIA pre-empts State laws that prohibit wage garnishment or otherwise govern wage garnishment procedures.

As authorized by the DCIA, a Federal agency collecting delinquent non-tax debt may administratively garnish a delinquent debtor's wages in accordance with regulations promulgated by the Secretary of the Treasury. The Financial Management Service (FMS), a bureau of the Department of the Treasury, is responsible for promulgating the regulations implementing this and other debt collection tools established by the DCIA.

In accordance with the requirements of the DCIA, this proposed rule establishes the following rules and procedures:

1. Notice

At least 30 days before GSA initiates garnishment proceedings, the Agency

will give the debtor written notice informing him or her of the nature and amount of the debt, the intention of GSA to collect the debt through deductions from pay, and an explanation of the debtor's rights regarding the proposed action.

2. Rights of the Debtor

GSA will provide the debtor with an opportunity to inspect and copy records related to the debt, to establish a repayment agreement, and to receive a hearing concerning the existence and/or amount of the debt and/or the terms of a repayment schedule. A hearing will be held prior to the issuance of a withholding order if the debtor's request is received timely. For hearing requests that are not received in the specified time frame, GSA will not delay issuance of the withholding order prior to conducting a hearing. GSA will not garnish the wages of a debtor who has been involuntarily separated from employment until that individual has been reemployed continuously for at least 12 months. The debtor bears the burden of informing GSA of the circumstances surrounding an involuntary separation from employment.

3. Employer's Responsibilities

GSA will send to the employer of a delinquent debtor a wage garnishment order directing that the employer pay a portion of the debtor's wages to GSA. This proposed rule requires the debtor's employer to certify certain payment information about the debtor. Employers will not be required to vary their normal pay cycles in order to comply with the garnishment order.

The DCIA prohibits employers from taking disciplinary actions against the debtor based on the fact that the debtor's wages are subject to administrative garnishment. In addition, the DCIA authorizes GSA to sue an employer for amounts not properly withheld from the wages payable to the debtor.

B. Executive Order 12866

This rule is not a significant regulatory action as defined in Executive Order 12866. It is hereby certified this regulation, including the certification referenced in this proposed rule (see § 105–57.007 of this part), will not have a significant economic impact on a substantial number of small entities. Although a substantial number