

(see 31 CFR 285.2, Tax Refund Offset) or the tariff laws of the United States;

(iv) Offsets against Federal salaries to the extent these standards are inconsistent with regulations published to implement such offsets under 5 U.S.C. 5514 and 31 U.S.C. 3716 (see 5 CFR part 550, subpart K, and 31 CFR 285.7, Federal Salary Offset);

(v) Offsets under 31 U.S.C. 3728 against a judgment obtained by a debtor against the United States;

(vi) Offsets or recoupments under common law, State law, or Federal statutes specifically prohibiting offsets or recoupments of particular types of debts; or

(vii) Offsets in the course of judicial proceedings, including bankruptcy.

(3) Unless otherwise provided for by contract or law, debts or payments that are not subject to administrative offset under 31 U.S.C. 3716 may be collected by administrative offset under the common law or other applicable statutory authority.

(4) Unless otherwise provided by law, administrative offset of payments under the authority of 31 U.S.C. 3716 to collect a debt may not be conducted more than 10 years after the General Services Administration's (GSA's) right to collect the debt first accrued, unless facts material to GSA's right to collect the debt were not known and could not reasonably have been known by the official or officials of GSA who were charged with the responsibility to discover and collect such debts. This limitation does not apply to debts reduced to a judgment.

(5) In bankruptcy cases, GSA will ascertain the impact of the Bankruptcy Code, particularly 11 U.S.C. 106, 362, and 553, on pending or contemplated collections by offset.

(b) *Mandatory centralized administrative offset.* (1) GSA is required to refer past due, legally enforceable non-tax debts that are over 180 days delinquent to the Secretary for collection by centralized administrative offset. Debts that are less than 180 days delinquent also may be referred to the Secretary for this purpose. See paragraph (b)(5) of this section for debt certification requirements.

(2) The names and taxpayer identifying numbers (TINs) of debtors who owe debts referred to the Secretary as described in paragraph (b)(1) of this section will be compared to the names and TINs on payments to be made by Federal disbursing officials. Federal disbursing officials include disbursing officials of the Department of the Treasury, the Department of Defense, the United States Postal Service, other Government corporations, and

disbursing officials of the United States designated by the Secretary. When the name and TIN of a debtor match the name and TIN of a payee and all other requirements for offset have been met, the payment will be offset to satisfy the debt.

(3) Federal disbursing officials will notify the debtor/payee in writing that an offset has occurred to satisfy, in part or in full, a past due, legally enforceable delinquent debt. The notice will include a description of the type and amount of the payment from which the offset was taken, the amount of offset that was taken, the identity of GSA as the creditor agency requesting the offset, and a contact point within GSA who will respond to questions regarding the offset.

(4)(i) Offsets may be initiated only after the debtor—

(A) Has been sent written notice of the type and amount of the debt, the intention of GSA to use administrative offset to collect the debt, and an explanation of the debtor's rights under 31 U.S.C. 3716(c)(7); and

(B) The debtor has been given—

(1) The opportunity to inspect and copy Agency records related to the debt;

(2) The opportunity for a review within GSA of the determination of indebtedness (see paragraph (e) of this section); and

(3) The opportunity to make a written agreement to repay the debt.

(ii) The procedures set forth in paragraph (b)(4)(i) of this section may be omitted when—

(A) The offset is in the nature of a recoupment;

(B) The debt arises under a contract as set forth in *Cecile Industries, Inc. v. Cheney*, 995 F.2d 1052 (Fed. Cir. 1993) (notice and other procedural protections set forth in 31 U.S.C. 3716(a) do not supplant or restrict established procedures for contractual offsets accommodated by the Contracts Disputes Act); or

(C) In the case of non-centralized administrative offsets conducted under paragraph (c) of this section, GSA first learns of the existence of the amount owed by the debtor when there is insufficient time before payment would be made to the debtor/payee to allow for prior notice and an opportunity for review. When prior notice and an opportunity for review are omitted, GSA will give the debtor such notice and an opportunity for review as soon as practicable and will promptly refund any money ultimately found not to have been owed to the Government.

(iii) When GSA previously has given a debtor any of the required notice and review opportunities with respect to a

particular debt (see, e.g., § 105–55.010), the Agency need not duplicate such notice and review opportunities before administrative offset may be initiated.

(5) When referring delinquent debts to the Secretary, GSA will certify, in a form acceptable to the Secretary, that—

(i) The debt(s) is (are) past due and legally enforceable; and

(ii) GSA has complied with all due process requirements under 31 U.S.C. 3716(a) and Agency regulations.

(6) Payments that are prohibited by law from being offset are exempt from centralized administrative offset. The Secretary shall exempt payments under means-tested programs from centralized administrative offset when requested in writing by the Administrator. Also, the Secretary may exempt other classes of payments from centralized offset upon the written request of the Administrator.

(7) Benefit payments made under the Social Security Act (42 U.S.C. 301 *et seq.*), part B of the Black Lung Benefits Act (30 U.S.C. 921 *et seq.*), and any law administered by the Railroad Retirement Board (other than tier 2 benefits), may be offset only in accordance with Treasury regulations, issued in consultation with the Social Security Administration, the Railroad Retirement Board, and the Office of Management and Budget. See 31 CFR 285.4.

(8) In accordance with 31 U.S.C. 3716(f), the Secretary may waive the provisions of the Computer Matching and Privacy Protection Act of 1988 concerning matching agreements and post-match notification and verification (5 U.S.C. 552a(o) and (p)) for centralized administrative offset upon receipt of a certification from GSA that the due process requirements enumerated in 31 U.S.C. 3716(a) have been met. The certification of a debt in accordance with paragraph (b)(5) of this section will satisfy this requirement. If such a waiver is granted, only the Data Integrity Board of the Department of the Treasury is required to oversee any matching activities, in accordance with 31 U.S.C. 3716(g). This waiver authority does not apply to offsets conducted under paragraphs (c) and (d) of this section.

(c) *Non-centralized administrative offset.* (1) Generally, non-centralized administrative offsets are ad hoc case-by-case offsets that GSA conducts, at the Agency's discretion, internally or in cooperation with another agency certifying or authorizing payments to the debtor. Unless otherwise prohibited by law, when centralized administrative offset is not available or appropriate, past due, legally enforceable non-tax delinquent debts may be collected through non-centralized administrative offset. In these cases, GSA may make a